



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, paragraph, subparagraph, or numbered paragraph).

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)
441 IAC 79.1(1)“a”(1)“1”	(Numbered paragraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2020

NOTICE† SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 26 '19	Jan. 15 '20	Feb. 4 '20	Feb. 19 '20	Feb. 21 '20	Mar. 11 '20	Apr. 15 '20	July 13 '20
Jan. 8	Jan. 29	Feb. 18	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 24	Feb. 12	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 7	Feb. 26	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 21	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	**May 13**	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	**June 24**	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
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June 24	July 15	Aug. 4	Aug. 19	**Aug. 19**	Sep. 9	Oct. 14	Jan. 11 '21
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '21
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '21
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Sep. 4	Sep. 23	Oct. 13	Oct. 28	**Oct. 28**	Nov. 18	Dec. 23	Mar. 22 '21
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PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
23	Friday, April 17, 2020	May 6, 2020
24	Friday, May 1, 2020	May 20, 2020
25	Wednesday, May 13, 2020	June 3, 2020

PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more working days in advance of the deadline.

****Note change of filing deadline****

NOTE: See also the Advisory Notice on page 2629.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality, 20.2, 22.1(3), 22.100,
22.120, 22.128(4), 23.1, 23.5,
25.1(9), 30.1(1), 33.3
IAB 3/11/20 **ARC 4961C**

See Advisory Notice published herein on
page 2629 for public hearing information

April 13, 2020
1 to 2 p.m.

INSURANCE DIVISION[191]

Unfair trade practices—standards
for annuity agents and securities
agents, amendments to ch 15,
50.104
IAB 3/25/20 **ARC 4998C**

Via conference call
Contact Tracy Swalwell
Phone: 515.725.1249
Email: tracy.swalwell@iid.iowa.gov

April 28, 2020
10 to 11 a.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and
health standards—adoption by
reference, 4.3(1)“j,” 10.20, 26.1
IAB 3/25/20 **ARC 4996C**

150 Des Moines St.
Des Moines, Iowa

April 15, 2020
9 a.m.
(If requested)

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Optometrists—electronic
transmission of prescriptions,
182.4(4)
IAB 3/25/20 **ARC 5003C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

April 14, 2020
1 to 1:30 p.m.

Massage therapists—child abuse
and dependent adult abuse
mandatory reporter training,
131.8(4)
IAB 3/25/20 **ARC 4992C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

April 14, 2020
8:30 to 9 a.m.

Psychologists—licensure, 240.1
to 240.10, 240.12(2)“b”
IAB 3/25/20 **ARC 5002C**

Fifth Floor Board Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

April 14, 2020
10 to 10:30 a.m.

Respiratory care practitioners
and polysomnographic
technologists—child abuse
and dependent adult abuse
mandatory reporter training,
261.8(4)
IAB 2/26/20 **ARC 4933C**

Fifth Floor Conference Room 526
Lucas State Office Bldg.
Des Moines, Iowa

April 23, 2020
9 to 9:30 a.m.

RACING AND GAMING COMMISSION[491]

Title not set
IAB 4/8/20 **ARC 5026C**
Imported from RMS

Via conference call
Contact Barb Blake
Email: barb.blake@iowa.gov

April 28, 2020
1 p.m.

TRANSPORTATION DEPARTMENT[761]

Motor carriers, 524.2 to 524.6, 524.7(2), 524.8, 524.11, 524.13, 524.15, 524.18 IAB 3/25/20 ARC 4994C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 16, 2020 11 a.m. (If requested)
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Driver's license examinations, amendments to ch 604 IAB 3/25/20 ARC 4995C	Department of Transportation Motor Vehicle Division 6310 SE Convenience Blvd. Ankeny, Iowa	April 16, 2020 10 a.m. (If requested)
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Licensing sanction prohibition for student loan debt and related service obligations, 5.18, 6.8, 10.6(1) IAB 3/25/20 ARC 5013C	Second Floor Boardroom Wallace State Office Bldg. Des Moines, Iowa	April 15, 2020 8 to 9 a.m.
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Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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ARC 5024C

HUMAN SERVICES DEPARTMENT[441]**Notice of Intended Action****Proposing rule making related to foster family homes
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 113, “Licensing and Regulation of Foster Family Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

The President signed the Bipartisan Budget Act of 2018, P.L. 115-123, into law on February 9, 2018. P.L. 115-123 includes the Families First Prevention Services Act (FFPSA) in Division E, Title VII. Section 50731 of the FFPSA directs the federal Department of Health and Human Services (HHS) to “identify reputable model licensing standards with respect to the licensing of foster family homes” (as defined in section 472(c)(1) of the Social Security Act). In response to this directive, the Children’s Bureau of HHS issued the National Model Foster Family Home Licensing Standards.

The proposed amendments pertain to the licensing and regulation of foster family homes and are required to align with the federal model licensing standards.

The following requirements are proposed to be added to the administrative rules:

- Applicants must be able to communicate with the licensing agency and health care and other service providers.
- At least one applicant in the home must have functional literacy; a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer the medications to a child.
- Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The Department may require further documentation and/or evaluation to determine the suitability of the home.
- There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family’s capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on the household member’s age and development.
- All household members who are caregivers must have up-to-date whooping cough vaccines unless contrary to the person’s health.
- The contracted agency must obtain at least three references, including at least one from a relative and one from a nonrelative.
- The applicant’s home must meet the following standards concerning swimming pools, hot tubs and spas:
 - o Swimming pools must have a barrier on all sides at least four feet high.
 - o Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.
 - o Swimming pools must be equipped with a lifesaving device, such as a ring buoy.
 - o If the swimming pool cannot be emptied after each use, the pool must have a working pump and filter system.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- o Hot tubs and spas must have safety covers that are locked when not in use.
- The applicant's home must meet the following standards concerning hazardous materials and first aid supplies:
 - o Applicants must prevent the child's access, as appropriate for the child's age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages. All medications should be kept in a locked cabinet.
 - o Applicants must maintain first aid supplies as recommended by the American Red Cross.
 - Assurances from applicants must be agreed upon including:
 - o They will not use any corporal or degrading punishment on any child in the home.
 - o They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary as indicated.

Weapons and ammunition must be separately stored, locked, unloaded and inaccessible to children. Currently, the rules require that weapons and firearms be maintained in a locked place such as a gun case. Federal requirements now specify the type of place and a list of weapons and ammunition that must be identified in the rule. The Model Licensing Standards were to be in effect April 1, 2019. The Department requested additional time from the federal Department of Health and Human Services (HHS) to implement the standards through administrative rules. Additional time was approved by HHS. The Department is moving forward with this rule making, since Iowa is out of compliance in several areas. Failure to meet the Model Family Home Foster Licensing Standards could result in the loss of Iowa's IV-E federal funding.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 28, 2020. Comments should be directed to:

Nancy Freudenberg
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **113.3(4)“a”** as follows:

a. Process. Information for the home study is gathered primarily through the required preservice training as described in rule 441—117.1(237). ~~In addition:~~ Tribal agencies may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C.A. Section 671(a)(26)(B) provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.

(1) No change.

(2) The worker shall hold at least one face-to-face interview with each member of the household in the applicant's home to observe family functioning and to assess the family's capacity to meet the needs of a child in foster care. The worker will determine whether to interview or just observe each household member based on the household member's age and development.

(3) and (4) No change.

ITEM 2. Amend subparagraph **113.3(4)“b”(5)** as follows:

(5) Medical, mental, and emotional conditions that may affect the applicant's ability to parent a child; treatment history; current status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health or substance abuse issues, or both. The department may require further documentation or evaluation, or both, to determine the suitability of the home.

ITEM 3. Renumber subparagraphs **113.3(4)“b”(6)** to **(16)** as **113.3(4)“b”(7)** to **(17)**.

ITEM 4. Adopt the following **new** subparagraph **113.3(4)“b”(6)**:

(6) All children who are household members must be up to date on immunizations jointly recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the child's health as documented by a licensed health care professional.

ITEM 5. Amend paragraph **113.5(2)“c”** as follows:

c. ~~When there is a swimming pool or child's plastic pool on the premises:~~ The applicant's home must meet the following standards concerning swimming pools, hot tubs and spas:

(1) A child's plastic pool shall be drained daily and shall be inaccessible to children when it is not in use. Swimming pools must have a barrier on all sides at least four feet high.

(2) An aboveground or in-ground swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age. Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.

(3) ~~An uncovered aboveground swimming pool shall be enclosed with an approved fence that is nonclimbable and is at least four feet high. The height of the side of the pool may be included.~~ Swimming pools must be equipped with a lifesaving device, such as a ring buoy.

(4) ~~An uncovered in-ground swimming pool flush with the ground shall be enclosed with an approved fence that is nonclimbable and is at least four feet high. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.~~

(5) Hot tubs and spas must have safety covers that are locked when not in use.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The foster parent or other adult shall provide reasonable supervision according to the ages and swimming abilities of the foster children when they are using the pool.

ITEM 6. Rescind paragraph **113.5(2)“d.”**

ITEM 7. Amend subparagraph **113.5(6)“a”(1)** as follows:

(1) Children over 6 five years of age shall not share a bedroom with a child of the opposite sex.

ITEM 8. Amend paragraph **113.5(6)“b”** as follows:

b. Children 2 two years of age or older shall be provided bedroom space other than in the foster parents' bedroom. Foster children under the age of 2 two may share a bedroom with the foster parent in an individual crib.

ITEM 9. Amend subrule 113.5(9) as follows:

113.5(9) ~~Toilet~~ Bathroom facilities.

a. Bathroom facilities shall have at least one toilet, sink, and tub or shower in safe operating condition.

~~*a. b.* Toilet Bathroom facilities shall have natural or artificial ventilation.~~

~~*b.* All toilet facilities shall be maintained in a clean and working condition.~~

ITEM 10. Amend paragraph **113.5(10)“b”** as follows:

b. Fireplaces and water heaters shall be vented to the outside atmosphere. The temperature of any water heaters must be set in accordance with the manufacturer's recommendations. Kerosene heaters and gas-fired space heaters shall not be used to heat any space in the home.

ITEM 11. Adopt the following **new** subrule 113.5(12):

113.5(12) *Phone.* A working phone or access to a working phone shall be in close walking proximity to an applicant's living space.

ITEM 12. Amend subrule 113.6(1) as follows:

113.6(1) *Food preparation and storage.* Food preparation areas shall be clean, and ~~there shall be facilities to store perishable food at cold temperatures and storage areas for other nonperishable food supplies~~ the home shall have kitchen facilities with a sink, refrigerator, stove, and oven in safe operating condition.

ITEM 13. Adopt the following **new** subrule 113.6(6):

113.6(6) *Rodent and insect infestation.* The home shall prevent or eliminate rodent and insect infestation.

ITEM 14. Amend paragraph **113.7(1)“a”** as follows:

a. ~~A working~~ At least one UL (Underwriter's Laboratory)-approved smoke detector. On floors that are used for sleeping, the smoke detector shall be in a location where sleeping areas can be alerted. For hearing-impaired children, the foster parent shall install a smoke detector in the child's bedroom that will use an alternative means of waking the child.

ITEM 15. Amend subrule 113.7(3) as follows:

113.7(3) *Safety plan.* The family shall have an emergency safety plan to be used for fire, tornado, blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for children in out-of-home placements. The safety plans shall state the action that the foster parents and children are to take in each situation that may occur and shall be posted in a prominent place in the home.

a. to c. No change.

d. Applicants must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home. If there is a landline phone located in the home, the numbers must be posted next to the phone.

ITEM 16. Amend subrule 113.7(4) as follows:

113.7(4) *Medications, first aid and poisonous substances.* ~~All medications and poisonous, toxic, or otherwise unsafe substances shall be kept secured from access by children.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. and *b.* No change.

c. Applicants must prevent the child's access, as appropriate for the child's age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages.

d. Applicants must maintain first aid supplies as recommended by the American Red Cross.

ITEM 17. Amend paragraph **113.7(5)“a”** as follows:

a. ~~Weapons and firearms shall be maintained in a locked place, such as a gun case.~~ The following weapons must be stored in an inoperative condition in a locked area inaccessible to children:

- (1) Firearms;
- (2) Air guns;
- (3) BB guns;
- (4) Hunting slingshots;
- (5) Any other projectile weapons.

ITEM 18. Amend paragraph **113.7(5)“b”** as follows:

b. ~~Ammunition~~ All ammunition, arrows or projectiles for such weapons shall be maintained in a locked place separate from the firearms.

ITEM 19. Adopt the following new paragraph **113.7(5)“f”**:

f. Foster parents who are also law enforcement officials and can document that their jurisdiction requires them to have ready and immediate access to their weapons may be exempt from these weapon requirements provided they adopt and follow a safety plan approved by the department.

ITEM 20. Amend subrule 113.7(6) as follows:

113.7(6) *Transporting foster children.*

a. ~~Foster parents shall have a valid Iowa driver's license and adequate motor vehicle insurance when the foster parents transport foster children in a motor vehicle.~~

b. ~~Foster parents shall ensure that appropriate child safety restraints, as required by Iowa law, are used for all foster children when the foster parents transport the children in a motor vehicle.~~

a. Foster parents will ensure that if a privately owned vehicle, owned by the applicants, family or friends, is used to transport the child in foster care, it must be inspected (if applicable under state law), registered, and insured and meet all applicable state or tribal requirements to be an operable vehicle on the road.

b. The driver will have a valid Iowa driver's license.

c. Safety restraints will be used that are appropriate to the child's age, height, and weight.

e. d. Any motor vehicles used to transport foster children shall be smoke-free when foster children are being transported.

e. Weapons must not be transported in any vehicle in which the child is riding unless the weapons are made inoperable and inaccessible.

f. Foster parents will have access to reliable public transportation if they do not have access to a reliable, registered, and insured vehicle.

ITEM 21. Renumber subrule **113.11(3)** as **113.11(4)**.

ITEM 22. Adopt the following new subrule 113.11(3):

113.11(3) *Whooping cough vaccine.* All household members who are caregivers must have up-to-date whooping cough vaccines unless contrary to the person's health.

ITEM 23. Reletter paragraphs **113.12(5)“d”** to **“i”** as **113.12(5)“f”** to **“k.”**

ITEM 24. Adopt the following new paragraphs **113.12(5)“d”** and **“e”**:

d. Be able to communicate with the licensing agency and health care and other service providers.

e. Have functional literacy, a level of reading, writing and calculation skills such as having the ability to read labels on medications in order to properly administer them.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 25. Amend subrule 113.14(1) as follows:

113.14(1) At least three additional unsolicited references shall be checked for all foster family home applicants in addition to a minimum of three references provided by the applicant. Required references shall include a minimum of one relative and one nonrelative.

ARC 5025C

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to military service and veteran reciprocity and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 278, “Military Service and Veteran Reciprocity for Fire Extinguishing and Alarm Systems Contractors and Installers,” and Chapter 506, “Military Service and Veteran Reciprocity,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 272C.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 272C.

Purpose and Summary

These proposed amendments implement changes required by 2019 Iowa Acts, House File 288, section 4, providing for expedited licensure for spouses of active duty service members of the military forces of the United States.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 4, 2020. Comments should be directed to:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Chandlor Collins
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: collins@dps.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **661—Chapter 278**, title, as follows:
MILITARY SERVICE, AND VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY SERVICE MEMBERS FOR FIRE EXTINGUISHING AND ALARM SYSTEMS CONTRACTORS AND INSTALLERS

ITEM 2. Adopt the following **new** definition of “Spouse” in rule **661—278.1(272C)**:
“*Spouse*” means a spouse of an active duty service member of the military forces of the United States.

ITEM 3. Amend rule 661—278.3(272C) as follows:

661—278.3(272C) Veteran and spouse of active duty service member reciprocity.

278.3(1) A veteran or a spouse with a fire protection or alarm system license in another jurisdiction may apply for licensure in Iowa through reciprocity, based on the reciprocity procedures for fire protection and alarm systems licensees as set out in the administrative rules in effect at the time that the ~~military service~~ application is made, and in compliance with any agreements with other jurisdictions regarding reciprocity. A fully completed licensure application submitted by a veteran or a spouse under this subrule is to be given priority and is expedited.

278.3(2) A licensure application shall contain all of the information required of all ~~military service~~ applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity. This information includes, but is not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary history and, if applicable, a criminal history background check. In addition, the ~~veteran applicant~~ shall provide such documentation as is reasonably needed to verify the ~~veteran’s applicant’s~~ status as a veteran under Iowa Code section 35.1(2) or spouse of an active duty service member of the military forces of the United States.

278.3(3) Upon receipt of a fully completed licensure application, the division shall promptly determine if the licensing requirements of the jurisdiction where the ~~veteran applicant~~ is licensed are substantially equivalent to the licensing requirements in Iowa. The division shall make this determination based on information supplied by the ~~veteran applicant~~ and additional information the division may acquire from the applicable jurisdiction. The division may consider the following

PUBLIC SAFETY DEPARTMENT[661](cont'd)

factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

278.3(4) The division shall promptly grant a license to the ~~veteran~~ applicant if the ~~veteran~~ applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to the licensing requirements in Iowa, unless the ~~veteran~~ applicant is ineligible for licensure based on other grounds, such as the ~~veteran's~~ applicant's disciplinary or criminal history.

278.3(5) If the division determines that the licensing requirements of the jurisdiction in which the ~~veteran~~ applicant is licensed are not substantially equivalent to the licensing requirements in Iowa, the division shall promptly inform the ~~veteran~~ applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the ~~veteran~~ applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal history, the following shall apply:

a. If a ~~veteran~~ an applicant has not obtained the required certification for licensure, the ~~veteran~~ applicant may not be issued a provisional license but may request that the licensure application be placed in pending status for up to one year, or as mutually agreed upon, to provide the ~~veteran~~ applicant with the opportunity to satisfy the certification requirements.

b. If additional experience or education is required for the ~~veteran's~~ applicant's qualifications to be considered substantially equivalent, the ~~veteran~~ applicant may request that the division issue a provisional license for a specified period of time, during which the ~~veteran~~ applicant will successfully complete the necessary experience or education. The division shall issue a provisional license for a specified period of time upon such conditions as the division deems reasonably necessary to protect the health, welfare, or safety of the public unless the division determines that the deficiency is of a character that the public health, welfare, or safety will be adversely affected if a provisional license is granted.

c. If a request for a provisional license is denied, the division shall notify the ~~veteran~~ applicant in writing, explaining the decision, and shall inform the ~~veteran~~ applicant of the steps the ~~veteran~~ applicant may take in order to receive a provisional license.

d. No change.

278.3(6) ~~A veteran~~ An applicant who is aggrieved by the division's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in the contested case by telephone. A request for a contested case shall be made within 30 days of the issuance of the division's decision. There are no fees or costs assessed against the ~~veteran~~ applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 4. Amend **661—Chapter 506**, title, as follows:

**MILITARY SERVICE, ~~AND~~ VETERAN RECIPROCITY, AND SPOUSES OF ACTIVE DUTY
SERVICE MEMBERS FOR ELECTRICIANS AND ELECTRICAL CONTRACTORS**

ITEM 5. Amend rule 661—506.1(85GA,ch1116) as follows:

661—506.1(~~85GA,ch1116~~ 272C) Definitions.

“Board” means the electrical examining board established in Iowa Code section 103.2.

“Military service” means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

“Military service applicant” means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

“Spouse” means a spouse of an active duty service member of the military forces of the United States.

“Veteran” means an individual who meets the definition of “veteran” in Iowa Code section 35.1(2).

ITEM 6. Amend rule **661—506.2(85GA,ch1116)**, parenthetical implementation statute, as follows:

661—506.2(~~85GA,ch1116~~ 272C) Military education, training, and service credit.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ITEM 7. Amend rule 661—506.3(85GA,ch1116) as follows:

661—506.3(85GA,~~ch1116~~ 272C) Veteran and spouse of active duty service member reciprocity.

506.3(1) A veteran or a spouse with an electrical license in another jurisdiction may apply for licensure in Iowa through reciprocity, based on the reciprocity procedures for licensed electricians as set out in the administrative rules in effect at the time that the application is made, and in compliance with any agreements with other jurisdictions regarding reciprocity. A veteran or a spouse must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran or a spouse under this subrule shall be given priority and shall be expedited.

506.3(2) An application shall contain all of the information required of all applicants for licensure who hold unrestricted licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories and, if applicable, a criminal history background check. In addition, the applicant shall provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2) or spouse of an active duty service member of the military forces of the United States.

506.3(3) Upon receipt of a fully completed licensure application, the board shall promptly determine if the licensing requirements of the jurisdiction where the ~~veteran~~ applicant is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, and postgraduate experiences.

506.3(4) The board shall promptly grant a license to the ~~veteran~~ applicant if the ~~veteran~~ applicant is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

506.3(5) If the board determines that the licensure requirements in the jurisdiction in which the ~~veteran~~ applicant is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the ~~veteran~~ applicant of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

a. If a ~~veteran~~ an applicant has not passed the required examination(s) for licensure, the ~~veteran~~ applicant may not be issued a provisional license but may request that the application be placed in pending status for up to one year or as mutually agreed to provide the ~~veteran~~ applicant with the opportunity to satisfy the examination requirements.

b. to d. No change.

506.3(6) ~~A veteran~~ An applicant who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. There shall be no fees or costs assessed against the ~~military service~~ applicant in connection with a contested case conducted pursuant to this subrule.

ITEM 8. Amend **661—Chapter 506**, implementation sentence, as follows:

These rules are intended to implement 2014 Iowa Acts, ~~chapter 1116, division VI~~ Iowa Code chapter 272C.

ARC 5026C**RACING AND GAMING COMMISSION[491]****Notice of Intended Action****Proposing rule making related to licensing sanctions and
providing an opportunity for public comment**

The Racing and Gaming Commission hereby proposes to amend Chapter 3, “Fair Information Practices,” and Chapter 6, “Occupational and Vendor Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 304.

Purpose and Summary

This rule making proposes amendments to implement legislation that was passed in 2019 prohibiting licensing sanctions against individuals who default or are delinquent on student loan debt or on a related service obligation.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on April 28, 2020. Comments should be directed to:

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held via conference call as follows:

April 28, 2020
1 p.m.

RACING AND GAMING COMMISSION[491](cont'd)

Persons who wish to attend the conference call should contact Barb Blake. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Barb Blake prior to the hearing to facilitate an orderly hearing. Persons may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 3.11(3) as follows:

3.11(3) *Sharing information.* Notwithstanding any statutory confidentiality provision, the agency may share information with the child support recovery unit and the ~~college-student-aid-commission~~ centralized collection unit of the department of revenue through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J, ~~261~~ 272D or 598.

ITEM 2. Rescind and reserve rule ~~491—6.12(99D,99F,261)~~.

ARC 5028C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed****Rule making related to enhance Iowa board and CAT grants**

The Economic Development Authority hereby amends Chapter 211, “Community Attraction and Tourism (CAT) Programs,” and Chapter 214, “Enhance Iowa Board,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15F and 2019 Iowa Acts, House File 305.

Purpose and Summary

2019 Iowa Acts, House File 305, amends portions of the Iowa Code that establish the Enhance Iowa Board, that establish the Board’s authority to adopt administrative rules, and that govern the allocation of Community Attraction and Tourism (CAT) funds.

House File 305 does three things. First, the legislation changes the duration of Board members’ terms from two-year terms to three-year terms. Second, the legislation strikes language that requires the Authority to adopt rules with the approval of the Enhance Iowa Board and makes it clear that the Enhance Iowa Board has the power to adopt administrative rules necessary to administer the programs established in Iowa Code chapter 15F, such as CAT and River Enhancement Community Attraction and Tourism (RECAT). Third, the legislation strikes language that allocates \$100,000 of CAT funds for the purpose of marketing CAT projects. The funds previously allocated to marketing will now be available for CAT projects.

The legislation impacts rules in Chapter 211 and Chapter 214. The amendments adopted in this rule making make corresponding changes to bring the rules into conformity with the statute.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 25, 2019, as **ARC 4670C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Enhance Iowa Board on December 11, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Rescind and reserve subrule **211.3(3)**.

ITEM 2. Amend subrule 214.2(2) as follows:

214.2(2) Terms. Members of the board are appointed for staggered terms of ~~two~~ three years beginning and ending as provided in Iowa Code section 69.19. A person appointed to fill a vacancy serves only for the unexpired portion of the term. A member is eligible for reappointment.

ITEM 3. Amend subrule 214.3(1) as follows:

214.3(1) The ~~authority, subject to approval by the board;~~ shall adopt administrative rules pursuant to Iowa Code chapter 17A necessary to administer the programs established pursuant to Iowa Code chapter 15F.

[Filed 3/22/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5019C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed****Rule making related to coordination of services and reviews**

The Human Services Department hereby amends Chapter 177, "In-Home Health Related Care," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.6.

Purpose and Summary

These amendments add provisions for coordination of services to avoid duplication. These amendments also add clarification on when reviews need to be completed and when services may be terminated. These amendments remove form names and numbers.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 29, 2020, as **ARC 4888C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 11, 2020.

Fiscal Impact

These amendments may reduce state supplementary assistance payments through coordination of services provided to the client. However, in-home health-related care (IHHRC) expenditures have been declining since FY 2017, and the Department does not expect this rule provision to fundamentally change the overall cost trend.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 177.4(1) as follows:

177.4(1) Eligible individual.

a. No change.

b. The physician's certification shall include a statement of the specific health care services and that the services can be provided in the individual's own home. The certification shall be given on ~~Form 470-0673, Physician's Report~~, a form prescribed by the department or on a similar plan of care form presently used by public health agencies.

c. and d. No change.

ITEM 2. Amend subrule 177.4(2) as follows:

177.4(2) Relationship to other programs. In-home ~~health-related~~ health-related care shall be provided only when other ~~existing~~ programs cannot meet the client's need. There shall be no duplication of services.

ITEM 3. Amend subrule 177.4(4) as follows:

177.4(4) Service plan. A complete service plan shall be prepared which includes the services needed, the plan for providing these services, and the health care plan defined in rule 441—177.6(249). The service plan shall be developed following consultation between the client's service worker and case

HUMAN SERVICES DEPARTMENT[441](cont'd)

manager to avoid all duplication of services. Consultation shall include current services provided to the client, payer sources, level of service needs, and service history.

ITEM 4. Amend subrule 177.4(10) as follows:

177.4(10) Application. Application for in-home ~~health-related~~ health-related care shall be made on ~~Form 470-2927 or 470-2927(S), Health Services Application~~ a form prescribed by the department. An eligibility determination shall be completed within 30 days from the date of the application, unless one or more of the following conditions exist:

- a. An application has been filed and is pending for federal supplemental security income benefits.
- b. The application is pending because the department has not received information, which is beyond the control of the client or the department.
- c. The application is pending due to the disability determination process performed through the department.
- d. The application is pending because ~~Form 470-0636, Provider Agreement~~, the provider agreement has not been completed and completion is beyond control of the client. When ~~Form 470-0636 the provider agreement~~ cannot be completed due to the client's failure to locate a provider, applications shall not be held pending beyond 60 days from the date of application.

ITEM 5. Amend subrule 177.5(2) as follows:

177.5(2) Health assessment. The provider shall obtain certification that the provider is physically and emotionally capable of providing assistance to another person who may have physical and emotional limitations.

- a. The certification shall be based on an examination performed by a physician or advanced registered nurse practitioner or by a physician assistant who is working under the direction of a physician. If the provider works for an agency, the practitioner performing the examination may not be employed by the same agency.
- b. The practitioner conducting the examination shall indicate the certification by signing ~~Form 470-0672, Provider Health Assessment~~ the provider health assessment.
- c. The certification shall be submitted to the department service worker:
 - (1) Before the provider agreement is signed, and
 - (2) Annually thereafter.

ITEM 6. Amend subrule 177.6(3) as follows:

177.6(3) Review. The continuing need for in-home health care services shall be reviewed:

- a. At a minimum of every 60 days by the physician, including a written recertification of continuing appropriateness of the plan;
- b. At a minimum of every six months by the service worker, including a review of the total care plan and consultation with the client's case manager to consider any change in the client's payer sources, level of service needs, current services provided, and service history;
- c. At a minimum of every 60 days by the nurse who shall review the nursing plan; ~~or~~
- d. More frequently if required by the physician, the service worker, or the nurse; or
- e. Upon notification of initiation of waiver services.

ITEM 7. Amend subrule 177.9(3) as follows:

177.9(3) Provider agreement. The client and the provider shall enter into an agreement, using ~~Form 470-0636, Provider Agreement~~ the provider agreement form, prior to the provision of service. Any reduction to the state supplemental assistance program shall be applied to the maximum amount paid by the department of human services as stated in the ~~Provider Agreement~~ provider agreement by using ~~Form 470-1999, Amendment~~ the separate amendment to Provider Agreement provider agreement form.

ITEM 8. Amend rule 441—177.11(249) as follows:

441—177.11(249) Termination. Termination of in-home ~~health-related~~ health-related care shall occur under the following conditions:

- 177.11(1) Request.** Upon the request of the client or legal representative.

HUMAN SERVICES DEPARTMENT[441](cont'd)

177.11(2) *Care unnecessary.* When the client becomes sufficiently self-sustaining to remain in the client's own home with services that can be provided by existing community agencies as determined by the service worker.

177.11(3) *Additional care necessary.* When the physical or mental condition of the client requires more care than can be provided in the client's own home as determined by the service worker.

177.11(4) *Excessive costs.* When the cost of care exceeds the maximum established in 177.4(3).

177.11(5) *Other services utilized.* When the service worker determines that other services can be utilized to better meet the client's needs.

177.11(6) *Terms of provider agreement not met.* When it has been determined by the service worker that the terms of the provider agreement have not been met by the client or the provider, the state supplementary assistance payment may be terminated.

177.11(7) *Qualified health care services absent.* Qualified health care services are health care services supervised by a registered nurse and approved by a physician. When a registered nurse is not available to supervise the in-home service and health care plan, or when a physician or nurse practitioner is not available to review or approve the health care plan, the state supplementary assistance payment shall be terminated.

[Filed 3/17/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5020C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to aftercare amounts

The Human Services Department hereby amends Chapter 187, "Aftercare Services Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 234.46.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 234.46.

Purpose and Summary

When Chapter 187 was recently amended, the new language was unclear. The Department believes there was an oversight when changes were made, and the result was that some participants may receive less financial support than was intended. This amendment corrects that error by clarifying that youth who previously received aftercare services may receive up to \$300 per quarter in postservices funds, which was the intent of the original amendment. This is the amount available to each youth per the aftercare contract.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 29, 2020, as **ARC 4889C**. No public comments were received. No changes from the Notice have been made.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on March 11, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making action is adopted:

Amend subrule 187.3(7) as follows:

187.3(7) Postservices allowance. Youth 21 or 22 years of age who previously received aftercare services may receive postservices funds if they meet all of the following criteria:

- a. The youth is participating in postservices as described in subrule 187.3(3).
- b. A budget discussion has been completed timely by the youth with a self-sufficiency advocate.
- c. The need has been identified in the individual self-sufficiency plan.
- d. The postservices funds approved for the youth have not exceeded ~~\$600 for the previous 12-month period~~ \$300 for a three-month period calculated from the date of initiation of postservices.

[Filed 3/17/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5027C

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**Adopted and Filed****Rule making related to five-year review of rules**

The Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 20, "Recognition of Agents," Iowa Administrative Code.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This rule making is intended to conform rules with other rules and statutes or rescind rules that are outdated, redundant or inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 11 to 15; to implement contribution rates for employers and regular and special service members beginning July 1, 2020; to reflect an Internal Revenue Service requirement verifying citizenship status; to add further clarity as to when a member's first month of entitlement begins; to indicate that subrule 12.1(6) (renumbered as 12.1(4) herein) applies only to regular class members; to change the yearly multiplier to a quarterly multiplier as is current IPERS practice; to remove outdated language regarding average covered wages and clarify the way in which a computed year of wages is calculated; to strike obsolete language and add necessary language regarding vesting by service; to clarify that annual certifications of disability benefits are not necessary after a member meets IPERS normal retirement age; to provide for the trial work period as allowed by federal disability benefits; to acknowledge and reflect the reality that multiple medical appointments may not be able to be scheduled consecutively the same day and written notice will be the primary communication of appointment notification; to amend language to reflect current practice regarding precertification of medical eligibility for disability; to further delineate the continued requirements for qualification for special service disability benefits; to emphasize that IPERS designation of beneficiary forms may be filed online through the IPERS website; and to preserve and clearly state that the member receives the higher of two preretirement death benefit calculations. In addition, this rule making is intended to clarify that when there is no proper or valid beneficiary to whom a death benefit is to be paid, beneficiaries will be paid via the intestacy law of the State of Iowa; and to address the proper role of social security representative payees.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4925C**. A public hearing was held on March 5, 2020, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa. No one attended the public hearing. No public comments were received. Changes from the Notice have been made to correct cross references to reflect the restructuring of rules herein.

Adoption of Rule Making

This rule making was adopted by IPERS on March 20, 2020.

Fiscal Impact

IPERS' enabling legislation requires employer and employee contribution rates for each member class to be updated every fiscal year.

Jobs Impact

After analysis and review of this rule making, IPERS believes the changes providing for the trial work period, as allowed by federal disability benefits, will positively impact disabled IPERS members returning to the workforce.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 4.6(1) as follows:

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020
Combined rate	14.88%	14.88%	14.88%	15.73%	15.73%	<u>15.73%</u>
Employer	8.93%	8.93%	8.93%	9.44%	9.44%	<u>9.44%</u>
Employee	5.95%	5.95%	5.95%	6.29%	6.29%	<u>6.29%</u>

ITEM 2. Amend subrule 4.6(2) as follows:

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020
Combined rate	19.76%	19.26%	18.76%	19.52%	19.02%	<u>18.52%</u>
Employer	9.88%	9.63%	9.38%	9.76%	9.51%	<u>9.26%</u>
Employee	9.88%	9.63%	9.38%	9.76%	9.51%	<u>9.26%</u>

ITEM 3. Amend subrule 4.6(3) as follows:

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2015	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020
Combined rate	16.40%	16.40%	16.40%	17.02%	16.52%	<u>16.02%</u>
Employer	9.84%	9.84%	9.84%	10.21%	9.91%	<u>9.61%</u>
Employee	6.56%	6.56%	6.56%	6.81%	6.61%	<u>6.41%</u>

ITEM 4. Adopt the following **new** paragraph **11.1(1)“g”**:

g. An indication whether the member is a U.S. citizen, resident alien, or non-U.S. citizen.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 5. Amend paragraph **11.2(4)“a”** as follows:

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the “required beginning date” specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The “required beginning date” is defined as the later of: (1) April 1 of the year following the year that the member attains the age of ~~70½~~ 72, or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

ITEM 6. Amend subrule 11.3(1) as follows:

11.3(1) General. A member shall submit a written application to IPERS setting forth the retirement date, provided the member has attained at least age 55 by the retirement date and the retirement date is after the member's last day of service. A member's first month of entitlement shall be no earlier than the first day of the first month after the member's ~~last day of service~~ date of termination from employment or, if later, the month provided for under subrule 11.3(2). No payment shall be made for any month prior to the month the completed application for benefits is received by IPERS.

If a member files a retirement application but fails to select a valid first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member's address.

ITEM 7. Amend subrule 11.3(2) as follows:

11.3(2) Additional FME provisions.

~~a. Effective through December 31, 1992, the first month of entitlement of a member who qualifies for retirement benefits is the first month following the member's date of termination or last day of leave, with or without pay, whichever is later.~~

~~b. Effective January 1, 1993, the first month of entitlement of an employee who qualifies for retirement benefits shall be the first month after the employee is paid the last paycheck, if paid more than one calendar month after termination. If the final paycheck is paid within the month after termination, the first month of entitlement shall be the month following termination.~~

~~c. Effective January 1, 2001, employees of a school corporation who are permitted by the terms of their employment contracts to receive their annual salaries in monthly installments over periods ranging from 9 to 12 months may retire at the end of a school year and receive trailing wages through the end of the contract year if they have completely fulfilled their contract obligations at the time of retirement. For purposes of this paragraph, “school corporation” means body politic described in Iowa Code sections 260C.16 (community colleges), 273.2 (area education agencies) and 273.1 (K-12 public schools). For purposes of this paragraph, “trailing wages” means previously earned wage payments made to such employees of a school corporation after the first month of entitlement. This exception does not apply to hourly employees, including those who make arrangements with their employers to hold back hourly wages for payment at a later date, to employees who are placed on sick or disability leave or leave of absence, or to employees who receive lump sum leave, vacation leave, early retirement incentive pay or any other lump sum payments in installments.~~

For all employees of all IPERS-covered employers who terminate employment in January 2003, or later, if the final paycheck is paid within the same quarter or within one quarter after termination and wages are reported under the normal pay schedule, the first month of entitlement shall be the month following termination. However, if the last paycheck is paid more than one quarter after the termination, the first month of entitlement shall be the first month after the employee is paid the last paycheck. Under

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

no circumstances shall such trailing wages result in more than one quarter of service credit being added to retiring members' earning records.

ITEM 8. Amend subrule 11.5(1) as follows:

11.5(1) *Bona fide retirement—general.* To receive retirement benefits, a member under the age of 70 must officially leave employment with all IPERS-covered employers, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. Notwithstanding the foregoing, the continuation of group insurance coverage at employee rates for the remainder of the school year for a school employee who retires following completion of services by that individual shall not cause that person to be in violation of IPERS' bona fide retirement requirements.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement. A member also will not be considered to have a bona fide retirement if the member has, prior to or during the member's first month of entitlement, entered into verbal or written arrangements with the ~~employer~~ member's former employer(s) to return to employment after the expiration of the four-month bona fide retirement period.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the retirement benefit. Such an elected official or legislator may remain in the elective office and receive an IPERS retirement without violating IPERS' bona fide retirement rules. If such elected official or legislator terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a retirement as of the date of hire, the retirement shall not be made. Furthermore, if such elected official or legislator is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the elected official or legislator shall not be eligible for new IPERS coverage for such elected position. The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official or legislator is reelected to the same position without an intervening term out of office.

The bona fide retirement period will be waived if the member has been elected to public office which term begins during the normal four-month bona fide retirement period. This includes elected officials who shall be covered under this chapter as defined in Iowa Code section 97B.1A. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

Effective July 1, 2000, a member does not have a bona fide retirement until all employment with covered employers, including employment which is not covered under this chapter, is terminated for at least one month, and the member does not return to covered employment for an additional three months. In order to receive retirement benefits, the member must file a completed application for benefits before returning to any employment with a covered employer.

Effective July 1, 2018, a member will not have a bona fide retirement if the member enters into a verbal or written arrangement to perform duties for the member's former employer(s) as an independent contractor prior to or during the member's first month of entitlement or performs any duties for the

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member's former employer(s) as an independent contractor prior to receiving four months of retirement benefits.

ITEM 9. Rescind subrule **11.5(2)**.

ITEM 10. Renumber subrules **11.5(3)** to **11.5(5)** as **11.5(2)** to **11.5(4)**.

ITEM 11. Amend renumbered subrule 11.5(2) as follows:

11.5(2) Bona fide refund. For a member to be eligible for a lump sum refund, the member must terminate the member's covered employment and incur a bona fide separation from service and remain out of employment for at least 30 days with all covered employers. The 30-day bona fide refund period shall be waived for an elected official covered under Iowa Code section 97B.1A(8) "a"(1), and for a member of the general assembly covered under Iowa Code section 97B.1A(8) "a"(2), when the elected official or legislator notifies IPERS of the intent to terminate IPERS coverage for the elective office and, at the same time, terminates all other IPERS-covered employment prior to the issuance of the refund. Such an official may remain in the elective office and receive an IPERS refund without violating IPERS' bona fide refund rules. If such elected official terminates coverage for the elective office and also terminates all other IPERS-covered employment but is then reemployed in covered employment, and has not received a refund as of the date of hire, the refund shall not be made. Furthermore, if such elected official is reemployed in covered employment, the election to revoke IPERS coverage for the elective position shall remain in effect, and the public official shall not be eligible for new IPERS coverage for such elected position.

The prior election to revoke IPERS coverage for the elected position shall also remain in effect if such elected official is reelected to the same position without an intervening term out of office. The waiver granted in this subrule shall be applicable to such elected officials who were in violation of the prior bona fide refund rules on and after November 1, 2002, when such individuals have not repaid the previously invalid refund.

If a member takes a refund in violation of the bona fide refund requirements of Iowa Code section 97B.53(4), the member may return the refund during the bona fide retirement period and restore the member's account. If the repayment is not made, the member shall receive no credit for the period covered by the refund. At retirement, the member may purchase, at actuarial cost, the service credit covered by the refund.

ITEM 12. Amend rule 495—11.7(97B) as follows:

495—11.7(97B) Overpayment of IPERS benefits.

11.7(1) and 11.7(2) No change.

11.7(3) Overpayment made to a person other than a retired member. A recipient other than a retired member, except a recipient listed in subrule 11.7(4) 11.5(2), shall receive written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. If such a recipient repays an overpayment in full within 30 days after the date of the notice, there will be no interest charge. If such a recipient cannot repay an overpayment in full within 30 days after the date of the notice, interest shall be charged. If repayment in full cannot be made within 30 days, such a recipient shall make repayment arrangements subject to IPERS' approval within 30 days of the written notice and request for repayment.

If the overpayment recipient cannot be located to receive notice of the overpayment at the recipient's last-known address, IPERS shall, after trying to locate the person, consider the recipient to have waived entitlement to the quarters covered by the refund.

~~**11.7(4) Overpayment made to a person who violates a bona fide severance period.** If a recipient takes a refund and does not complete the required period of severance, the recipient shall receive a written notice of overpayment, including the reason for the overpayment, the amount of the overpayment, and the opportunity to repay the overpayment in full without interest. The recipient shall have 30 days after the date of notice to repay the full amount of the refund without interest. If the repayment is not made within 30 days after the date of notice, the person shall receive no credit for the period of employment covered by the refund and shall be required to buy back the refund at its actuarial cost if the member~~

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later decides that the member wants service credit for any portion of the period of employment covered by the refund.

~~11.7(5)~~ **11.7(4)** *Interest charges.*

a. *Overpayment not fraudulent.* If the overpayment of benefits, other than an overpayment that results from a violation described in subrule ~~11.7(4)~~ **11.5(2)**, was not the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 5 percent, or the rate IPERS determines, on the outstanding balance, beginning 30 days after the date of notice of the overpayment(s) is provided by IPERS.

b. *Overpayments in violation of Iowa Code section 97B.40 or 715A.8.* If the overpayment of benefits, other than an overpayment that results from a violation described in subrule ~~11.7(4)~~ **11.5(2)**, was the result of wrongdoing, negligence, misrepresentation, or omission of the recipient, the recipient is liable to pay interest charges at the rate of 7 percent on the outstanding balance, beginning on the date of the overpayment(s).

c. *Overpayments that result in a judgment.* In addition to other remedies, IPERS may file a civil action to recover overpayments, and the interest rate may be set by the court.

~~11.7(6)~~ **11.7(5)** *Recovery of overpayment from a deceased recipient.* If a recipient dies prior to the full repayment of an erroneous overpayment of benefits, IPERS shall be entitled to apply to the estate of the deceased to recover the remaining balance.

~~11.7(7)~~ **11.7(6)** *Offsets against amounts payable.* IPERS may, in addition to other remedies and after notice to the recipient, request an offset against amounts owing to the recipient by the state according to the offset procedures pursuant to Iowa Code sections 8A.504 and 421.17.

~~11.7(8)~~ **11.7(7)** *Rights of appeal.* A recipient who is notified of an overpayment and required to make repayments under this rule may appeal IPERS' determination in writing to the CEO or CEO's designee. The written request must explain the basis of the appeal and must be received by IPERS' office within 30 days of overpayment notice pursuant to 495—Chapter 26.

~~11.7(9)~~ **11.7(8)** *Release of overpayment.* IPERS may release a recipient from liability to repay an overpayment, in whole or in part, if IPERS determines that the receipt of overpayment is not the fault of the recipient, and that it would be contrary to equity and good conscience to collect the overpayment. No release of an individual recipient's obligation to repay an overpayment shall stand as precedent for release of another recipient's obligation to repay an overpayment.

ITEM 13. Amend subrule **12.1(2)**, catchwords, as follows:

12.1(2) *Reduction for early retirement for regular class members.*

ITEM 14. Amend subrule **12.1(3)**, catchwords, as follows:

12.1(3) *Early retirement date for regular class members.*

ITEM 15. Rescind subrules **12.1(4)** and **12.1(5)**.

ITEM 16. Renumber subrules **12.1(6)** and **12.1(7)** as **12.1(4)** and **12.1(5)**.

ITEM 17. Amend renumbered subrule 12.1(4) as follows:

12.1(4) *Benefit formulas for members retiring on or after July 1, 1994 2012.*

a. For each active member retiring on or after July 1, 1994 ~~2012~~, with four or more complete years of who is vested by service, the monthly benefit will be equal to one-twelfth of an amount equal to 60 percent of the ~~three-year~~ final average covered wage multiplied by a fraction of years of service.

b. For all active and inactive vested members, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member's retirement. If the member takes early retirement, the benefit shall be adjusted as provided in subrule 12.1(2).

c. ~~Effective July 1, 1996, through June 30, 1998, in~~ In addition to the 60 percent multiplier identified above, regular class members who retire with years of service in excess of their "applicable years" ~~30 years~~ shall have the percentage multiplier increased by ~~1~~ .25 percent for each quarter of a year in excess of their "applicable years," ~~30~~, not to exceed an increase of 5 percent. For regular members, "applicable years" means 30 years; for protection-occupation members, "applicable years" means 25 years; for sheriffs, deputy sheriffs, and airport firefighters, "applicable years" means 22 years.

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d. In addition to the 60 percent multiplier identified above, protection occupation members, sheriffs, and deputy sheriffs who retire with years of service in excess of 22 years shall have the percentage multiplier increased by .375 percent for each quarter of a year in excess of 22, not to exceed an increase of 12 percent.

d. Effective July 1, 1998, sheriffs, deputy sheriffs, and airport firefighters who retire with years of service in excess of their applicable years shall have their percentage multiplier increased by 1.5 percent for each year in excess of their applicable years, not to exceed an increase of 12 percent.

e. Effective July 1, 2000, the "applicable years" and increases in the percentage multiplier for years in excess of the applicable years for protection occupation members shall be determined under Iowa Code section 97B.49B(1), as set forth in paragraph "f" below.

f. For special service members covered under Iowa Code section 97B.49B, the applicable percentage and applicable years for members retiring on or after July 1, 2000, shall be determined as follows:

(1) For each member retiring on or after July 1, 2000, and before July 1, 2001, 60 percent plus, if applicable, an additional .25 percent for each additional quarter of eligible service beyond 24 years of service (the "applicable years"), not to exceed 6 additional percentage points;

(2) For each member retiring on or after July 1, 2001, and before July 1, 2002, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 23 years of service (the "applicable years"), not to exceed a total of 7 additional percentage points;

(3) For each member retiring on or after July 1, 2002, and before July 1, 2003, 60 percent plus, if applicable, .25 percent for each additional quarter of eligible service beyond 22 years of service (the "applicable years"), not to exceed a total of 8 additional percentage points;

(4) For each member retiring on or after July 1, 2003, 60 percent plus, if applicable, an additional .375 percent for each additional quarter of eligible service beyond 22 years of service (the "applicable years"), not to exceed a total of 12 additional percentage points.

(5) e. Regular service does not count as "eligible service" in determining a special service member's applicable percentage.

ITEM 18. Amend renumbered subrule 12.1(5) as follows:

12.1(5) Average covered wages for special service members and for wages of regular class members prior to July 2012.

a. "Three-year average covered wage" means a member's covered calendar year wages averaged for the highest three years of the member's service. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, for the member's final year of wages, IPERS may determine the wages for the third year by computing the final quarter or quarters of wages to complete the year. The computed year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member's final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The computed year wages shall not exceed the Internal Revenue Service maximum covered wage in effect for that calendar year. Furthermore, for members whose first month of entitlement is January of 1999 or later, the computed year shall not exceed the member's highest actual calendar year of covered wages by more than 3 percent. Effective July 1, 2007, a member's high three-year average wage shall be the greater of (1) the member's high three-year average covered wage based on covered wages reported through June 30, 2007; or (2) the member's high three-year average covered wage after application of the antispiking control as described in paragraph "e" 12.1(5) "b" below.

For members whose first month of entitlement is January 1995 or later, a full third year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete

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the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member's final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The three-year average covered wage cannot exceed the highest maximum covered wages in effect during the member's service.

If the three-year average covered wage of a member who retires on or after January 1, 1997, and before January 1, 2002, exceeds the limits set forth in paragraph "b" below, the longer period specified in paragraph "b" shall be substituted for the three-year averaging period described above. No quarters from the longer averaging period described in paragraph "b" shall be combined with the final quarter or quarters to complete the last year.

~~b.~~ For the persons retiring during the period beginning January 1, 1997, and ending December 31, 2001, the three-year average covered wage shall be computed as follows:

~~(1) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds \$48,000, the member's covered wages averaged for the highest four years of the member's service or \$48,000, whichever is greater.~~

~~(2) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds \$52,000, the member's covered wages averaged for the highest five years of the member's service or \$52,000, whichever is greater.~~

~~(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds \$55,000, the member's covered wages averaged for the highest six years of the member's service or \$55,000, whichever is greater.~~

~~(4) For a member who retires on or after January 1, 2000, but before January 1, 2001, and whose three-year average covered wage at the time of retirement exceeds \$65,000, the member's covered wages averaged for the highest six years of the member's service or \$65,000, whichever is greater. For the calendar year beginning January 1, 2001, the six-year wage averaging trigger shall be increased to \$75,000.~~

~~(5) Effective January 1, 2002, the computation of average covered wages shall be as provided in paragraph 12.1(7) "a."~~

~~For purposes of paragraph 12.1(7) "b," the highest years of the member's service shall be determined using calendar years and may be determined using one computed year. The computed year shall be calculated in the manner and subject to the restrictions provided in paragraph 12.1(7) "a."~~

~~e. b.~~ Antispiking limit on the growth of a member's high three-year average.

~~(1) to (6) No change.~~

~~d. c.~~ Effective July 1, 2012, a nonvested regular class member's average covered wage shall be the member's five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) "a."

~~e. d.~~ Effective July 1, 2012, for regular class members vested as of June 30, 2012, the member's average covered wage shall be the greater of the member's three-year average covered wage calculated as provided under paragraphs 12.1(7) "a" through "e," 12.1(5) "a" and "b," or the member's five-year average covered wage calculated as provided in Iowa Code section 97B.1A(10A) "a." The "five-year average covered wage" means a member's covered calendar year wages averaged for the highest five years of the member's service. However, in the member's final year of wages, IPERS may determine the wages for the fifth year by computing the final quarter or quarters of wages to complete the year. The computed year wages shall not exceed the Internal Revenue Service maximum covered wage in effect for that calendar year. Furthermore, the computed year shall not exceed the member's highest actual calendar year of covered wages by more than 3 percent. A full fifth year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage year not used in the computation of the five high years and dividing the covered salary by four quarters. This value

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will be combined with the final quarter or quarters of wages to complete a full calendar year. If the member's final quarter of wages will reduce the five-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The five-year average covered wage cannot exceed the highest Internal Revenue Service maximum covered wages in effect during the member's service. In addition, the average five-year salary is restricted to an antispiking limit of 134 percent of the highest sixth year of wages.

ITEM 19. Amend subrule 12.2(1) as follows:

12.2(1) The initial monthly benefit for the retired member will be calculated utilizing the wages that have been reported as of the member's retirement and subject to the requirements of subrule ~~12.1(7)~~ **12.1(5)**. When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to redetermine the member's benefit amount. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the "computed year" shall not exceed the highest covered wage ceiling in effect during the member's period of employment.

ITEM 20. Rescind rule **495—12.3(97B)**.

ITEM 21. Renumber rules **495—12.4(97B)** to **495—12.10(97B)** as **495—12.3(97B)** to **495—12.9(97B)**.

ITEM 22. Amend renumbered paragraph **12.3(5)"c"** as follows:

c. If the sum of the percentages obtained exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph ~~12.4(3)"e."~~ **12.3(3)"c."**

ITEM 23. Amend renumbered subrule 12.4(1) as follows:

12.4(1) For each member ~~who is vested prior to July 1, 2012, and is retiring prior to July 1, 2012, with less than four complete years of service, not vested by service as defined in Iowa Code section 97B.1A(25)"d,"~~ a monthly annuity shall be determined by applying the total ~~reserve member and employer's accumulated contributions~~ as of the effective retirement date ~~(plus any retirement dividends standing to the member's credit on December 31, 1966)~~ to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). ~~If the member's retirement occurs before January 1, 1995, IPERS' revised 6.50 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used. If the member's retirement occurs after December 31, 2009, IPERS' 7.50 percent tables shall be used. If the member's retirement occurs after December 31, 2019, IPERS' 7.00 percent tables shall be used.~~

ITEM 24. Amend renumbered subrule 12.4(2) as follows:

12.4(2) For each vested member for whom the present value of future benefits under Option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). ~~If the member's retirement occurs before January 1, 1995, IPERS' revised 6.50 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.~~

ITEM 25. Rescind renumbered subrule **12.4(3)**.

ITEM 26. Renumber subrules **12.4(4)** and **12.4(5)** as **12.4(3)** and **12.4(4)**.

ITEM 27. Amend renumbered subrule 12.4(3) as follows:

12.4(3) For calculations under subrule ~~12.5(1)~~ **12.4(1)**, Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member's total reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount. For calculations under subrule ~~12.5(2)~~ **12.4(2)**,

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Options 2, 3, 4, 5 and 6 shall be calculated by dividing the member reserve by the applicable Option 2, 3, 4, 5 or 6 annuity factor taken from the system's tables to determine the monthly amount.

ITEM 28. Rescind renumbered subrule **12.4(6)**.

ITEM 29. Renumber subrule **12.4(7)** as **12.4(5)**.

ITEM 30. Rescind renumbered subrule **12.6(1)**.

ITEM 31. Renumber subrules **12.6(2)** to **12.6(7)** as **12.6(1)** to **12.6(6)**.

ITEM 32. Amend renumbered subrule 12.6(5) as follows:

12.6(5) Limit on reductions. ~~For a member who has substantial noncovered employment, the application of the~~ The level payment choice factors shall not reduce the monthly amount payable to a member at age 62 to less than 50 percent of the monthly amount that would have been payable under IPERS Option 2. Accordingly, payments before age 62 to such members shall be reduced in the same manner, with the corresponding adjustments made to death benefits.

ITEM 33. Amend renumbered subrule 12.7(1) as follows:

12.7(1) Effective July 1, 1998, the monthly benefit payments for a member under the age of 65 who has a bona fide retirement and is then reemployed in covered employment shall be reduced by 50 cents for each dollar the member earns in excess of the annual limit. Effective July 1, 2002, this reduction is not required until the member earns the amount of remuneration permitted for a calendar year for a person under the age of 65 before a reduction in federal social security retirement benefits is required, or earns \$30,000, whichever is greater. The foregoing reduction shall apply only to IPERS benefits payable for the applicable year that the member has reemployment earnings and after the earnings limit has been reached. Said reductions shall be applied as provided in subrule ~~12.8(2)~~ **12.7(2)**.

Effective January 1, 1991, this earnings limitation does not apply to covered employment as an elected official. A member aged 65 or older who has completed at least four full calendar months of bona fide retirement and is later reemployed in covered employment shall not be subject to any wage-earning disqualification.

ITEM 34. Amend renumbered subrule 12.7(2), introductory paragraph, as follows:

12.7(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule ~~12.8(1)~~ **12.7(1)** shall be reduced as follows:

ITEM 35. Amend renumbered subrule 12.7(4) as follows:

12.7(4) In recomputing a retired member's monthly benefit, IPERS shall use the following assumptions.

a. The member cannot change the option or beneficiary with respect to the reemployment period.

b. If the member would only qualify for a money purchase benefit under rule 495—~~12.5(97B)~~ **495—12.4(97B)** based solely on the period of reemployment, then the money purchase formula shall be used to compute the additional benefit amount due to the reemployment.

c. If the member would qualify for a non-money purchase retirement allowance based solely on the period of reemployment, the benefit formula in effect as of the first month of entitlement (FME) for the reemployment period shall be used. If the FME is July 1998 or later, and the member has more than 30 years of service, including both original and reemployment service, the percentage multiplier for the reemployment period only will be at the applicable percentage (up to 65 percent) for the total years of service.

d. If a period of reemployment would increase the monthly benefit a member is entitled to receive, the member may elect between the increase and a refund of the employee and employer contributions without regard to reemployment FME.

e. If a member previously elected IPERS Option 1, is eligible for an increase in the Option 1 monthly benefits, and elects to receive the increase in the member's monthly benefits, the member's Option 1 death benefit shall also be increased if the investment is at least \$1,000. The amount of the increase shall be at least the same percentage of the maximum death benefit permitted with respect to the reemployment as the percentage of the maximum death benefit elected at the member's original

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retirement. In determining the increase in Option 1 death benefits, IPERS shall round up to the nearest \$1,000. For example, if a member's investment for a period of reemployment is \$1,900 and the member elected at the member's original retirement to receive 50 percent of the Option 1 maximum death benefit, the death benefit attributable to the reemployment shall be \$1,000 (50 percent times \$1,900, rounded up to the nearest \$1,000). Notwithstanding the foregoing, if the member's investment for the period of reemployment is less than \$1,000, the benefit formula for a member who originally elected new IPERS Option 1 shall be calculated under IPERS Option 3.

~~f.~~ A retired reemployed member whose reemployment FME precedes July 1998 shall not be eligible to receive the employer contributions made available to retired reemployed members under Iowa Code section 97B.48A(4) effective July 1, 1998.

~~g.~~ f. A retired reemployed member who requests a return of the employee and employer contributions made during a period of reemployment cannot repay the distribution and have the service credit for the period of reemployment restored.

~~h.~~ g. If a retired reemployed member selected IPERS Option 5 at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death all remaining guaranteed payments with respect to both periods of employment shall be paid in a commuted lump sum.

~~i.~~ h. If a retired reemployed member selected IPERS Option 2 (or old IPERS Option 1) at retirement, and after the period of reemployment requests an increase in the member's monthly allowance, at death the member's monthly payments following the increase shall be prorated between the member's two annuities to determine the amount of the member's remaining accumulated contributions that may be paid as a death benefit.

~~j.~~ i. A retired reemployed member who has attained the age of 70 may take an actuarial equivalent (AE) payment. However, such a member must terminate covered employment for at least 30 days before taking an additional AE payment.

ITEM 36. Amend renumbered subrule 12.8(3) as follows:

12.8(3) An AE payment under this rule shall be equal to the sum of the member's and employer's accumulated contributions and the retirement dividends standing to the member's credit before December 31, 1966.

ITEM 37. Amend subrule 13.1(1) as follows:

13.1(1) For IPERS regular class members retiring because of a disability:

a. The member must be awarded federal social security benefits due to a disability which existed on or before the member's first month of entitlement.

b. Effective July 1, 1990, the member may also qualify for the IPERS disability provision by being awarded, and commencing to receive, disability benefits through the federal Railroad Retirement Act, 45 U.S.C. Section 231 et seq., due to a disability which existed at the time of retirement.

c. The period for which up to 36 months of retroactive payments under Iowa Code section 97B.50(2) shall be paid is for up to 36 months preceding the month in which such completed application for IPERS disability is received by IPERS. In no event shall retroactive disability benefits payments under Iowa Code section 97B.50(2) precede the month the member actually receives the member's first social security or railroad retirement disability payment. The member shall provide IPERS with a copy of the Social Security Administration or railroad retirement award letter showing dates of eligibility.

d. Continued qualification monitoring.

(1) For a member retiring due to a disability under Iowa Code section 97B.50(2), on or after July 1, 2009, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

(2) For a member retiring due to a disability under Iowa Code section 97B.50A, the member shall provide IPERS complete copies of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year, in order to continue qualification for IPERS disability benefits.

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IPERS shall suspend the disability benefits of any member if the records required ~~under these subparagraphs~~ are not timely provided.

(2) The annual certification of continued eligibility for federal social security disability benefits or railroad retirement disability benefits is not required as of the calendar year the member reaches normal retirement age as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service.

ITEM 38. Amend subrule 13.1(2) as follows:

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, and is no longer eligible for social security or railroad disability benefits, the benefits being provided to the member under Iowa Code section 97B.50(2) "a" or "b" shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

ITEM 39. Amend subrule 13.2(3) as follows:

13.2(3) *Scheduling of appointments.* Upon receipt and forwarding of the application and sufficient medical records to the medical board, the disability retirement benefits officer shall establish an appointment for the applicant to be seen by the medical board in Iowa City. The member shall be notified ~~by telephone and~~ in writing of the appointment, and shall be given general instructions about where to go for the examinations. The appointment for the examinations shall be no later than 60 days after the completed application, including sufficient medical records, is provided. ~~All examinations must be scheduled and completed on the same date.~~ The member shall also be notified about the procedures to follow for reimbursement of travel expenses and lodging. Fees for physical examinations and medical records costs shall be paid directly by IPERS pursuant to its contractual arrangements with the medical providers required to implement Iowa Code section 97B.50A.

ITEM 40. Amend subrule 13.2(8) as follows:

13.2(8) *General benefits provisions.* Effective July 1, 2000, if an initial disability determination is favorable, benefits shall begin as of the date of the initial disability determination or, if earlier, the member's last day on the payroll, but no more than six months of retroactive benefits are payable, subject to Iowa Code section 97B.50A(13). "Last day on the payroll" shall include any form of authorized leave time, whether paid or unpaid. If a member receives short-term disability benefits from the employer while awaiting a disability determination hereunder, disability benefits will accrue from the date the member's short-term disability payments are discontinued. If an initial favorable determination is appealed, the member shall continue to receive payments pending the outcome of the appeal.

Any member who is awarded disability benefits under Iowa Code section 97B.50A and this rule shall be eligible to elect any of the benefit options available under Iowa Code section 97B.51. All such options shall be the actuarial equivalent of the lifetime monthly benefit provided in Iowa Code section 97B.50A(2) and (3).

The disability benefits established under this subrule shall be eligible for the favorable experience dividends payable under Iowa Code section 97B.49F(2).

If the award of disability benefits is overturned upon appeal, the member may be required to repay the amount already received or, upon retirement, have payments suspended or reduced until the appropriate amount is recovered.

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~~IPERS shall, at the member's written request, precertify a member's medical eligibility through the procedures set forth in subrules 13.2(3) and 13.2(4), provided that IPERS shall have full discretion to request additional medical information and to redetermine the member's medical eligibility if the member chooses not to apply for disability benefits at the time of the precertification. IPERS shall not pay for the costs of more than one such precertification per 12-month period.~~

ITEM 41. Amend subrule 13.2(13) as follows:

13.2(13) Reemployment/income monitoring. A member who retires under Iowa Code section 97B.50A and this rule shall be required to supply a copy of a complete set of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year, in order to continue qualification for IPERS special service disability benefits. IPERS may suspend the benefits of any such member if such records are not timely provided. This subrule does not apply to a member who is at least 55 years of age and would have completed 22 years of service if the member had remained in active special service employment.

Only wages and self-employment income shall be counted in determining a member's reemployment comparison amount, as adjusted for health care coverage for the member and member's dependents.

ITEM 42. Amend rule 495—14.1(97B) as follows:

495—14.1(97B) Internal Revenue Code limitations. The death benefits payable under Iowa Code sections 97B.51 and 97B.52 shall not exceed the maximum amount possible under Internal Revenue Code Section 401(a)(9).

To ensure that the limit is not exceeded, a member's combined lump sum death benefit under Iowa Code sections 97B.52(1) and 97B.52(2) shall not exceed 100 times the Option 2 amount that would have been payable to the member at the member's earliest normal retirement age. If a beneficiary of a special service member is eligible for an in-the-line-of-duty death benefit, any reduction required under this rule shall be taken first from a death benefit payable under Iowa Code section 97B.52(1). The "100 times" limit shall apply to active and inactive members. The death benefits payable under this chapter for a period of reemployment for a retired reemployed member who dies during the period of reemployment shall also be subject to the limits described in this rule.

The maximum claims period for IPERS lump sum death benefits shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for a member who dies after the member's required beginning date, unless the beneficiary is a spouse. The claims period for all cases in which the member's death occurs during the same calendar year in which a claim must be filed under this rule shall end April 1 of the year following the year of the member's death.

A member's beneficiary or heir may file a claim for previously forfeited death benefits. Interest, if any, for periods prior to the date of the claim will only be credited through the quarter that the death benefit was required to be forfeited by law. Interest for periods following the quarter of forfeiture will accrue beginning with the quarter that the claim for reinstatement is received by IPERS. For death benefits required to be forfeited in order to satisfy Section 401(a)(9) of the federal Internal Revenue Code, in no event will the forfeiture date precede January 1, 1988. IPERS shall not be liable for any excise taxes imposed by the Internal Revenue Service on reinstated death benefits.

Effective January 14, 2004, all claims for a previously forfeited death benefit shall be processed under the procedure set forth at rule ~~495—14.13(97B)~~ 495—14.6(97B).

The system recognizes the validity of same gender marriages executed in Iowa on or after April 27, 2009, if the domestic relations order or other assignment otherwise meets the system's minimum requirements for such orders; the system shall modify the tax treatment of distributions under such orders as required by the federal laws governing such distributions. IPERS shall adopt such rules and procedures as are deemed necessary to fully implement the provisions of this rule. The Iowa Supreme Court decision recognizing same gender marriages in Iowa specifically states that this recognition does not extend to same gender marriages of other states. The system recognizes the validity of same gender marriages based on the U.S. Supreme Court's decision in *United States v. Windsor*, 133 S.Ct. 2675 (2013) and the

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direction of Rev. Rul. 2013-17 and IRS Notice 2014-19. IPERS shall recognize the federal tax treatment of distributions as required by the sources listed in this paragraph.

ITEM 43. Amend subrule 14.3(1) as follows:

14.3(1) *Designation of beneficiaries.* To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. Members may also designate their beneficiary through the IPERS website. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated.

ITEM 44. Amend subrule 14.3(3) as follows:

14.3(3) *Change of beneficiary.* The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. Members may also change their beneficiary through the IPERS website. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

ITEM 45. Amend rule 495—14.4(97B) as follows:

495—14.4(97B) Applications for death benefits. Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, or if a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, bureau of health statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access together with information establishing the claimant's right to payment. A named beneficiary must complete an IPERS application for death benefits based on the deceased member's account. If the claimant's claim is based on dissolution of marriage that revoked the IPERS beneficiary designation, the claim must be processed pursuant to rule ~~495—14.17(97B)~~ 495—14.16(97B).

ITEM 46. Amend rule 495—14.6(97B) as follows:

495—14.6(97B) Payment of the death benefit when no designation of beneficiary or an invalid designation of beneficiary form is on file. When no designation of beneficiary or an invalid designation of beneficiary form is on file with IPERS, payment shall be made in one of the following ways.

14.6(1) Where the estate is open, payment shall be made to the administrator or executor where said executor or administrator shall be duly appointed and serving under Iowa Code chapter 633 or 635.

14.6(2) Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made ~~to the surviving spouse. The following documents shall be presented as supporting evidence:~~ in accordance with the intestacy laws of the state of Iowa. If someone other than those identified pursuant to the intestacy laws of the state of Iowa claims entitlement

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to a death benefit, an estate must be opened and the death benefit shall be payable to the administrator or executor of the estate.

- ~~a. Copy of the will, if any;~~
- ~~b. Copy of any letters of appointment; and~~
- ~~c. Copy of the court order closing the estate and discharging the executor or administrator.~~

~~14.6(3) Where no estate is probated or the estate is closed prior to the filing with IPERS of an application for death benefits and there is no surviving spouse, payment will be made to the heirs-at-law as determined by the intestacy laws of the state of Iowa.~~

~~14.6(4) Where a trustee has been named as designated beneficiary and is not willing to accept the death benefit or otherwise serve as trustee, IPERS may apply but is not required to apply to the applicable district court for an order to distribute the funds to the clerk of court on behalf of the beneficiaries of the member's trust. Upon the issuance of an order and the giving of such notice as the court prescribes, IPERS may deposit the death benefit with the clerk of court for distribution. IPERS shall be discharged from all liability upon deposit with the clerk of court.~~

ITEM 47. Rescind rule 495—14.12(97B) and adopt the following new rule in lieu thereof:

495—14.12(97B) Preretirement death benefits.

14.12(1) *Death prior to first month of entitlement.* Where an active member, or an inactive member vested by service, dies prior to the first month of entitlement, the lump sum death benefit shall be the greater of the amount provided in subrule 14.12(3) or 14.12(4). Sole beneficiaries may elect, in lieu of the lump sum amount, to receive a single life annuity that is the actuarial equivalent of such lump sum amount. Where an inactive member, not vested by service, dies prior to the first month of entitlement, the lump sum death benefit shall be as provided in subrule 14.12(7).

14.12(2) *Death benefits under Iowa Code section 97B.52(1).*

a. Definitions.

"Accrued benefit" means the monthly amount that would have been payable to the deceased member under IPERS Option 2 at the member's earliest normal retirement age, based on the member's covered wages and service credits at the date of death. If a deceased member's wage record consists of a combination of regular and special service credits, the monthly amount that would have been payable to the deceased member under Option 2 at the member's earliest normal retirement age shall be determined separately for regular and special service credits, and then combined.

"Nearest age" means a member's or beneficiary's age expressed in whole years, after rounding for partial years of age. Ages shall be rounded down to the nearest whole year if less than six complete months have passed following the month of the member's or beneficiary's last birthday, and shall be rounded up if six complete months or more have passed following the month of the member's or beneficiary's last birthday.

b. Process for applying.

(1) A claim for a single life annuity under this subrule must be filed as follows:

1. A nonspouse beneficiary must file a claim for a single life annuity within 12 months of the member's death.

2. A beneficiary who is a surviving spouse must file a claim for a single life annuity within 12 months of the member's death, or by the date that the member would have attained the age of 72, whichever period is later.

(2) Elections to receive the lump sum amount or single life annuity shall be irrevocable once the first payment is made.

(3) No further benefits will be payable following the death of any beneficiary who qualifies and elects to receive the single life annuity provided under this subrule.

(4) The provisions of this subrule shall not apply to members who died before January 1, 2001.

14.12(3) *Accumulated contributions lump sum benefit.* An accumulated contribution lump sum death benefit is equal to the accumulated contributions of the member plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the "applicable denominator," as provided in Iowa Code section

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97B.52(1) "a." The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS.

14.12(4) *Present value lump sum.* A lump sum death benefit equal to the present value of the member's accrued benefit is calculated as follows:

a. IPERS shall calculate a member's retirement benefit at earliest normal retirement age under IPERS Option 2, based on the member's covered wages and service credits at the date of death and the retirement benefit formula in effect in the month following the date of death.

b. For purposes of determining the "member date of death annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the member's nearest age at the member's date of death.

c. For purposes of determining the "member unreduced retirement annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the member's nearest age at the member's earliest normal retirement date. If a member had already attained the member's earliest normal retirement date, IPERS shall assume that "age" means the member's nearest age at the date of death.

14.12(5) *Single life annuity benefit.* Procedures and assumptions for converting the actuarial equivalent of a lump sum death benefit to a single life annuity are as follows:

a. For purposes of determining the "age of beneficiary annuity factor" under the conversion tables supplied by IPERS' actuary, IPERS shall assume that "age" means the beneficiary's nearest age as of the beneficiary's first month of entitlement.

b. A beneficiary's first month of entitlement is the month after the date of the member's death.

c. Effective for claims filed after June 30, 2004, no retroactive payments of the single life annuity shall be made under this subrule.

d. Effective for claims filed after June 30, 2004, the beneficiary whose single life annuity is less than \$600 per year shall be able to receive only the lump sum payment under this rule.

e. Any sole beneficiary who is eligible for and elects to receive a single life annuity under this subrule shall also qualify for the favorable experience dividend (FED) payments authorized under rule 495—15.2(97B), subject to the requirements of that rule.

14.12(6) *Retired reemployed members and aged 70 members who retire without terminating employment.* Preretirement death benefits for retired reemployed members and aged 70 members who retire without terminating employment shall be calculated as follows:

a. For beneficiaries of such members who elect IPERS Option 4 or 6 at retirement, IPERS shall recompute (for retired reemployed members) or recalculate/recompute (for aged 70 members who retired without terminating employment) the member's monthly benefits as though the member had elected to terminate employment as of the date of death, to have the member's benefits adjusted for postretirement wages, and then lived into the recomputation or recalculation/recomputation (as applicable) first month of entitlement.

b. The recomputation provided under paragraph 14.12(6) "a" shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of reemployment, and is subject to the limitations of Iowa Code sections 97B.48A, 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. The recalculation/recomputations provided under paragraph 14.12(6) "a" shall apply only to beneficiaries of members who elected IPERS Option 4 or 6, where the member's monthly benefit would have been increased by the period of employment after the initial retirement, and is subject to the limitations of Iowa Code sections 97B.49A, 97B.49B, 97B.49C, 97B.49D, and 97B.49G. In all other cases, including cases where members previously received a lump sum payment under Iowa Code section 97B.48(1) in lieu of a monthly retirement allowance, preretirement death benefits under this paragraph shall be the lump sum amount equal to the accumulated employee and accumulated employer contributions.

c. Beneficiaries of members who had elected IPERS Option 4 or 6 may also elect to receive the accumulated employer and accumulated employee contributions described in paragraph 14.12(6) "b" in lieu of the increased monthly annuity amount. Notwithstanding paragraph 14.12(6) "b" above, if the member elected IPERS Option 5 at retirement, the lump sum amount payable under this paragraph shall

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

be the greater of the applicable commuted lump sum or the accumulated employee and accumulated employer contributions.

14.12(7) Inactive member, not vested by service death benefit.

a. For deaths occurring after June 30, 2004, and before July 1, 2012, for inactive members who have less than 16 quarters of service credit, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1) "a," and shall only be payable in lump sum amounts. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

b. For deaths occurring after June 30, 2012, preretirement death benefits shall be provided solely under Iowa Code section 97B.52(1) "a" and shall only be payable in lump sum amounts for inactive members who are not vested by service. For purposes of this paragraph, an inactive member is a member as defined under Iowa Code section 97B.1A(12).

ITEM 48. Rescind rule **495—14.13(97B)**.

ITEM 49. Renumber rules **495—14.14(97B)** to **495—14.17(97B)** as **495—14.13(97B)** to **495—14.16(97B)**.

ITEM 50. Amend renumbered rule 495—14.16(97B) as follows:

495—14.16(97B) Beneficiary revocation pursuant to Iowa Code section 598.20B, dissolution of marriage. IPERS is not liable for the payment of death benefits to a beneficiary pursuant to a beneficiary designation that has been revoked or reinstated by a divorce, annulment, or remarriage before IPERS receives the written notice set forth in subrule ~~14.17(1)~~ 14.16(1). Furthermore, IPERS shall only be liable for payments made after receipt of such written notice if the written notice is received at least ten calendar days prior to the payment.

14.16(1) and 14.16(2) No change.

14.16(3) Administration. Upon receipt of written notice that meets the requirements of subrules ~~14.17(1)~~ 14.16(1) and ~~14.17(2)~~ 14.16(2):

a. to d. No change.

14.16(4) No change.

ITEM 51. Amend rule 495—20.1(97B) as follows:

495—20.1(97B) Recognition of agents.

20.1(1) Recognition of agents in general. When a member or beneficiary desires to be represented by an agent before the system, the member or beneficiary shall designate in writing, using a power of attorney form or other acceptable legal form, the name of a representative and the nature of the business the representative is authorized to transact. Other acceptable legal form can be a guardianship, conservatorship, other similar court order that appoints an agent to act upon behalf of a member or beneficiary, or social security representative payee documents for the individual so designated. An agent can be an institution or facility acting upon the member's or beneficiary's behalf. Such designation on the part of the member or beneficiary shall constitute for IPERS sufficient proof of the acceptability of the individual to serve as the member's or beneficiary's agent.

20.1(2) Payment to members or beneficiaries with a recognized agent. When it appears that the interest of a member or beneficiary would be served, IPERS may recognize an agent to represent the member or beneficiary in the transaction of the affairs with IPERS. ~~Recognition may be obtained through the filing with IPERS of a copy of the guardianship, trusteeship, power of attorney, conservatorship, other similar court order which appoints an agent to act upon behalf of a member or beneficiary, or social security representative payee documents by the individual so designated.~~ Such persons agents have all the rights and obligations of the member or beneficiary unless the document creating the agency relationship limits this authority as it pertains to the system. Notwithstanding the foregoing, ~~none of the foregoing representatives~~ no agent shall have the right to name the ~~representative agent~~ agent as the member's or beneficiary's beneficiary unless approved to do so by a court having jurisdiction of the matter, or unless expressly authorized to do so in a power of attorney executed by the member or beneficiary.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

20.1(3) *Revocation or suspension of power of attorney.* Any person serving as an agent by power of attorney under this rule can have the agency relationship rescinded by the member or beneficiary by notifying IPERS ~~verbally or~~ in writing. A power of attorney shall be suspended and given no effect when the system receives written proof of the appointment of a guardian, conservator, or court order that appoints an agent to act upon behalf of the member or beneficiary. The power of attorney shall be reinstated when the system receives written proof that a guardianship, conservatorship, or court order appointing an agent no longer exists, has expired, or is invalid.

20.1(4) *Revocation of other representative agents.* Any person, institution, or facility serving as a ~~representative~~ an agent under a guardianship, or conservatorship, or social security representative payee may not be ~~have its agency relationship~~ revoked unless by court order or notice from the social security administration in writing.

20.1(5) *Social security representative payees.* The system shall accept the federal social security administration's appointment of a person, facility, or institution to act upon a member's or beneficiary's behalf only with regard to the deposit of system benefits. The appointment of a person, facility, or institution by the federal social security administration shall be suspended and given no effect when the system receives written proof of the appointment of a guardian, conservator, or court order that appoints an agent to act upon behalf of the member or beneficiary. A power of attorney or court order will take precedence over the federal social security administration's appointment of a person, facility, or institution to act upon a member's or beneficiary's behalf.

20.1(6) *Agent standards.* A person, facility, or institution serving in the capacity of an agent shall act in the best interests of the member or beneficiary. Payments made to the agent on behalf of the member or beneficiary will be used for the direct benefit of the member or beneficiary. The failure to serve in the best interests of the member or beneficiary will cause discontinuance of the agency relationship and may serve as the basis for legal action by IPERS, the member, or the beneficiary.

ITEM 52. Rescind and reserve rule 495—20.2(97B).

[Filed 3/20/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5022C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to update of rules

The Labor Commissioner hereby amends Chapter 1, "Description of Organization and Procedures Before the Division," Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Chapter 32, "Child Labor," Chapter 38, "Employment Agency Licensing," Chapter 61, "Administration of Iowa Code Chapter 88A," Chapter 150, "Construction Contractor Registration," Chapter 155, "Asbestos Removal and Encapsulation," Chapter 156, "Bidder Preferences in Government Contracting," and Chapter 177, "Mixed Martial Arts," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 88.5, 88A.3, 88B.3, 90A.7, 91.6, 91C.6, 92.8 and 94A.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 88, 88A, 88B, 90A, 91, 91C, 92 and 94A.

LABOR SERVICES DIVISION[875](cont'd)

Purpose and Summary

These amendments remove obsolete references; update addresses; amend language concerning hazardous occupations for youth; allow year-round amusement operators to apply for their annual permits in November; require amusement permit applications to be submitted 30 days, rather than 14 days, in advance; align rules with statutory language; facilitate the use of hoods for asbestos abatement workers; and amend the definitions of “construction” and “mixed martial arts.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4894C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commissioner on March 18, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 1.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 1.3(2) as follows:

1.3(2) ~~Correspondence and payments may be mailed to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.~~ The telephone number for the division is (515)242-5870. The division’s office is located at 150 Des Moines Street, Des Moines, Iowa 50309. The division’s website is www.iowadivisionoflabor.gov.

ITEM 2. Amend rule 875—1.15(22,91) as follows:

875—1.15(22,91) Procedure by which additions, dissents, or objections may be entered into certain records. Except as otherwise provided by law, a person may have a written statement of additions, dissents, or objections entered into a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject of a record to alter the original copy or to expand the official record of any division proceeding. Written statements of additions, dissents,

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or objections shall be sent to the custodian or to the Labor Commissioner, ~~1000 E. Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. Written statements of additions, dissents, or objections must be dated and signed and shall include the current address and telephone number of the requester or the requester's representative.

ITEM 3. Amend subrule 1.41(1) as follows:

1.41(1) General. When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the division will issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Division of Labor Services, Division Rules Coordinator, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

ITEM 4. Amend subrule 1.43(4) as follows:

1.43(4) Written criticisms. Written criticisms of a rule may be mailed to Division of Labor Services, Division Rules Coordinator, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. To constitute a criticism of a rule, the criticism must be in writing, state it is a criticism of a specific rule, state the rule number, and provide reasons for criticism of the rule. All written rule criticisms received will be kept for a period of five years.

ITEM 5. Amend subrule 1.52(3), introductory paragraph, as follows:

1.52(3) A petition for intervention shall be mailed to Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. The petition is deemed filed when it is received by that office. The division will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be legible and must substantially conform to the following form:

ITEM 6. Amend rule 875—1.54(17A) as follows:

875—1.54(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be mailed to Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 7. Amend subrule 1.55(2) as follows:

1.55(2) Filing—when required. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Declaratory Orders Coordinator, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the division.

ITEM 8. Amend subrule 1.75(4) as follows:

1.75(4) When filing is required. After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be mailed to the division at ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the division.

ITEM 9. Amend subrule 1.75(6) as follows:

1.75(6) Proof of mailing. Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309, and to the names and addresses of the parties listed below by depositing the same in (state: a United States post office mailbox with correct postage properly affixed, state interoffice mail, courier).

(Date)

(Signature)

LABOR SERVICES DIVISION[875](cont'd)

ITEM 10. Amend rule 875—1.102(17A,91), introductory paragraph, as follows:

875—1.102(17A,91) Petitions. If the petition for waiver or variance relates to a pending contested case, the petition shall be filed in the contested case proceeding. Other petitions must be mailed to Labor Commissioner, Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. In either case, the petition shall include the following information where applicable:

ITEM 11. Amend paragraph **4.3(2)“c”** as follows:

c. Visiting ~~1000 E. Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa.

ITEM 12. Amend subrule 32.8(21) as follows:

32.8(21) ~~Occupations deemed by the labor commissioner to be hazardous to life or limb as provided by Iowa Code section 92.8(21)~~ Hazardous occupations prohibited by the labor commissioner include the following:

a. Occupations involved in the operation of power cutters on corn detasseling machines.

b. Occupations involved in the driving of power-driven detasseling machines ~~provided that unless~~ the driver has a valid driver's license or a certificate issued by the Federal Extension Service showing that the driver has completed a 4-H farm and machinery program.

This subrule is intended to implement Iowa Code section 92.8(21).

ITEM 13. Amend subrule 38.2(1) as follows:

38.2(1) Application. An application for a license must be made in writing to the commissioner ~~upon Form PEA-1(309-6164)~~ on the form provided by the commissioner. The ~~application form~~ applicant shall be accompanied by ~~two copies of~~ also complete and submit the employee-paid fee schedule ~~Form PEA-2(309-6164)~~ form provided by the commissioner; \$75 nonrefundable fee; and all contract forms to be signed by an employee. The application shall also be accompanied by a surety company bond in the sum of \$30,000, to be approved by the commissioner and conditioned to pay any damages that may accrue to any person due to a wrongful act or violation of law on the part of the applicant in the conduct of business.

ITEM 14. Amend subrule 38.2(3) as follows:

38.2(3) Change in officers. A change in the name of any person required to be reported on the application under Iowa Code ~~Supplement~~ chapter 94A shall be forwarded to the commissioner within ten days of the change.

ITEM 15. Amend paragraph **38.8(2)“c”** as follows:

c. All contracts and fee schedules must clearly state that the agency is licensed by the labor commissioner and that inquiries may be made via mail to the Division of Labor Services, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309, or by telephone to (515)242-5870.

ITEM 16. Amend **875—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ chapter 94A.

ITEM 17. Amend subrule 61.3(1) as follows:

61.3(1) Operating permit. No later than May 1 and at least ~~14~~ 30 days before operation begins each calendar year, the operator of covered equipment shall apply to the commissioner for an operating permit. Applications may be submitted in November for continuous operations. Application shall be made on a form provided by the commissioner. Each of the following shall be submitted with the completed operating permit application:

a. to g. No change.

ITEM 18. Amend rule **875—150.2(91C)**, definition of “Construction,” as follows:

“Construction” means new work, additions, alterations, reconstruction, installations, repairs and demolitions. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites which

LABOR SERVICES DIVISION[875](cont'd)

may be dispersed geographically. Examples of construction activities, adopted by reference, are in 871—23.82(96) for purposes of the Iowa employment security law. ~~For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, “construction” includes asbestos abatement.~~

ITEM 19. Amend subrule 155.6(1) as follows:

155.6(1) Application form. Except as noted in this subrule, the applicant must complete and submit the entire form provided by the division with the necessary attachments. Respirator fit tests and medical examinations must have occurred within the past 12 months. Only worker and contractor/supervisor license applicants must submit the ~~respirator fit test~~ respiratory protection and physician’s certification forms. Photocopies of the forms shall not be accepted.

ITEM 20. Amend subrule 155.6(2) as follows:

155.6(2) Training. A certificate of appropriate training ~~from a course provider approved for asbestos training~~ as established by the U.S. Environmental Protection Agency must accompany all applications. Applicants for a license must be trained by training providers other than themselves. Applicants who completed initial training under a prior set of applicable rules will not be required to take another initial training course if they complete all annual refresher courses.

ITEM 21. Amend subparagraph **155.6(11)“a”(1)** as follows:

(1) A copy of a certificate for training that was provided within the past 12 months ~~by a course provider approved~~ as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;

ITEM 22. Amend subparagraph **155.6(11)“a”(3)** as follows:

(3) ~~Documentation~~ For a worker wearing or intending to wear a tight-fitting respirator, documentation of a respirator fit test consistent with 29 CFR 1910.134 within the past 12 months;

ITEM 23. Amend subparagraph **155.6(11)“b”(1)** as follows:

(1) A copy of a certificate for training ~~by a course provider approved~~ as established by the U.S. Environmental Protection Agency and that pertains to the work being performed;

ITEM 24. Amend subrule 156.4(1) as follows:

156.4(1) Complaints. Any person with information regarding a violation of the Act may submit a written complaint to the commissioner. Any complaint must provide the information required pursuant to subrule 156.4(2) or as much of such information as is reasonably practicable under the circumstances. The completed written complaint form shall be mailed to the commissioner at Labor Services Division, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 25. Amend rule 875—177.1(90A), introductory paragraph, as follows:

875—177.1(90A) Definitions. The definitions contained in Iowa Code chapter 90A ~~as amended by 2010 Iowa Acts, Senate File 2286,~~ and the definitions in this rule shall apply to this chapter.

ITEM 26. Amend rule **875—177.1(90A)**, definition of “Mixed martial arts,” as follows:

“*Mixed martial arts*” means a style of athletic contest that includes a combination of combative skills from ~~the sports of boxing, wrestling, kickboxing and judo~~ different disciplines of the martial arts, including, without limitation, grappling, kicking and striking.

[Filed 3/18/20, effective 5/13/20]

[Published 4/8/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5021C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

**Rule making related to mandatory child abuse and
dependent adult abuse identification and reporting training**

The Board of Physical and Occupational Therapy hereby amends Chapter 200, “Licensure of Physical Therapists and Physical Therapist Assistants,” and Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 232.69(3)“e,” 235B.16(5)“e” and 272C.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 232.69 and 235B.16.

Purpose and Summary

2019 Iowa Acts, House File 731, amended Iowa Code sections 232.69 and 235B.16, which govern mandatory training in child and dependent adult abuse identification and reporting for certain professionals. This rule making amends the Board’s requirements for mandatory training in child and dependent adult abuse identification and reporting to reflect the statutory changes and requires that licensees who must make reports for child or dependent adult abuse comply with the training requirements provided in Iowa Code sections 232.69 and 235B.16 every three years.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 4, 2019, as **ARC 4785C**. A public hearing was held on January 6, 2020, at 9 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Board on March 13, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

A waiver provision is not included in this rule making because all administrative rules of the professional licensure boards in the Professional Licensure Division are subject to the waiver provisions accorded under 645—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 200.9(4) as follows:

200.9(4) Mandatory reporter training requirements.

a. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa~~ is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of ~~two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous five~~ three years ~~or~~ or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa~~ is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of ~~two hours of training in dependent adult abuse identification and reporting as required by Iowa Code section 235B.16(5) "b" in the previous five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "e."

c. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa~~ shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirements as identified in paragraph "e."

~~Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course~~ course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.

d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.

f. The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

ITEM 2. Amend subrule 206.10(4) as follows:

206.10(4) Mandatory reporter training requirements.

a. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats children in Iowa~~ is required by Iowa Code section 232.69 to report child abuse shall indicate on the renewal application completion of ~~two hours of training in child abuse identification and reporting as required by Iowa Code section 232.69(3) "b" in the previous five~~ three years or condition(s) for waiver of this requirement as identified in paragraph "e."

b. A licensee who ~~in the scope of professional practice regularly examines, attends, counsels or treats adults in Iowa~~ is required by Iowa Code section 235B.3 or 235E.2 to report dependent adult abuse shall indicate on the renewal application completion of ~~two hours of training in dependent adult abuse~~

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

identification and reporting as required by Iowa Code section 235B.16(5) “b” in the previous ~~five~~ three years or condition(s) for waiver of this requirement as identified in paragraph “e.”

~~c. A licensee who in the scope of professional practice regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph “e.”~~

~~Training may be completed through separate courses as identified in paragraphs “a” and “b” or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course course(s) shall be a the curriculum approved provided by the Iowa department of public health abuse education review panel human services.~~

~~d. The licensee shall maintain written documentation for ~~five~~ three years after mandatory training as identified in paragraphs “a” to “c,” including program date(s), content, duration, and proof of participation.~~

~~e. The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:~~

~~(1) Is engaged in active duty in the military service of this state or the United States.~~

~~(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 4.~~

~~f. The board may select licensees for audit of compliance with the requirements in paragraphs “a” to “e.”~~

[Filed 3/17/20, effective 6/1/20]

[Published 4/8/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5014C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to healthy families Iowa program administration

The Public Health Department hereby amends Chapter 87, “Healthy Families Iowa (HFI),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.106 and 2019 Iowa Acts, House File 766, section 3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.106 and 2019 Iowa Acts, House File 766, section 3.

Purpose and Summary

This amendment updates the rules for the Healthy Opportunities for Parents to Experience Success—Healthy Families Iowa (HOPES-HFI) program administration as required by 2019 Iowa Acts, House File 766, section 3. House File 766 changed the application to a competitive bidding

PUBLIC HEALTH DEPARTMENT[641](cont'd)

process for HOPES-HFI funding. This amendment also includes technical cleanup based upon the Healthy Families America model.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4859C**. No public comments were received. The Department made minor changes to the wording of the definitions of “family support program” and “home visitation” to align with standard definition wording styles. In addition, the last word in subrule 87.5(1) was changed from “initiation” to “execution.”

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 11, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s waiver and variance provisions contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making action is adopted:

Amend rules 641—87.1(135) to 641—87.5(135) as follows:

641—87.1(135) Purpose. These rules are intended to establish standards for the healthy families Iowa (HFI) program, a family support program that provides services to families and children during the prenatal to preschool years period through three years of age through home visitation. This program shall be identified as healthy opportunities for parents to experience success—healthy families Iowa (HOPES-HFI). The HOPES-HFI program is intended to promote optimal child health and development; improve family coping skills and functioning; promote positive parenting skills and ~~intrafamilial~~ parent-child interaction; and prevent child abuse and neglect and infant mortality and morbidity. These rules outline the process by which the department ~~assists the Iowa empowerment board in managing contracting for~~ manages HOPES-HFI funds.

641—87.2(135) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this rule:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“Accreditation” means national recognition of compliance with Healthy Families America standards through a peer review process.

“Applicant” means a governmental or nonprofit agency that ~~received grant funds in the previous fiscal year,~~ is fully accredited by Healthy Families America (HFA) or in the process of HFA accreditation, and applies to the department during a competitive year. In any year in which expansion funds are available for the HOPES-HFI program, the department shall award new grants, subject to annual renewal, to selected applicants in a competitive process.

“At-risk community” means a county or group of counties that are identified as at risk in the most recently available needs assessment conducted by the department.

“Competitive grant” means the competitive grant application process to determine the grant awards for a project period.

“Contractor” means a governmental or nonprofit agency that holds a contract with the department to provide HOPES-HFI services.

“Department” means the Iowa department of public health.

“Family support” means ~~community-based services to promote the well-being of children and families.~~

1. Family support programs have the following characteristics:

- ~~Family driven, meaning there is a true partnership with families.~~
- ~~Comprehensive, flexible, and individualized for each family based on the family’s culture, needs, values and preferences.~~

- ~~Build on strengths to increase the stability of family members and the family unit.~~

- ~~Utilize informal and formal support networks.~~

2. Family support programs produce the following results:

- ~~Increased parent confidence and competence in parenting abilities.~~

- ~~Safe, stable, and supportive families who are connected to their communities.~~

- ~~Enhanced health, growth, and development of children and adults in the family unit.~~

“Family support program” means group-based parent education or home visiting programs that are designed to strengthen protective factors, including parenting skills, increasing parental knowledge of child development, and increasing family functioning and problem-solving skills. A family support program may be used as an early intervention strategy to improve birth outcomes, parental knowledge, family economic success, the home learning environment, family and child involvement with others, and coordination with other community resources. A family support program may have a specific focus on preventing child maltreatment or ensuring children are safe, healthy, and ready to succeed in school.

“Healthy Families America” or *“HFA”* means ~~a research-based~~ an evidence-based national program model designed to help ~~overburdened at-risk~~ families. HFA is a family support program that provides services to families and children during the prenatal ~~to preschool-years~~ period through three years of age through home visitation.

“Healthy families Iowa” or *“HFI”* means the state family support program that provides services to families and children during the prenatal ~~to preschool-years~~ period through three years of age through home visitation utilizing the Healthy Families America model.

“Home visitation” means a face-to-face interaction ~~that occurs between the participant(s) and home visitor. The goals of the home visit are to promote positive parent-child interaction and healthy childhood growth and development and to enhance family functioning. Typically, home visits occur in the home, lasting a minimum of an hour, and the child is present.~~ visit with a family in their home, or other alternate location, to facilitate meeting the family’s goals. Home visitation is a strategy to deliver family support or parent education services. Temporary use of an alternate location may happen when meeting in the family home presents safety concerns for the worker or the family or on rare occasions to facilitate meeting the program’s outcomes such as medical appointments or school staffing. Home visitation typically lasts one hour and is provided in person. The use of telephonic or other media to communicate with the family does not substitute for home visitation.

“HOPES-HFI” means the healthy opportunities for parents to experience success—healthy families Iowa program. The HOPES-HFI program is intended to promote optimal child health and development;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

improve family coping skills and functioning; promote positive parenting skills and ~~intrafamilial~~ parent-child interaction; and prevent child abuse and neglect and infant mortality and morbidity.

“Nonprofit” means an entity that meets the requirement for tax-exempt status under Internal Revenue Code Section 501(c)(3) or 501(c)(4).

“Participant” means a family voluntarily enrolled in and receiving services from the program.

“Project period” means the period of time the department intends to support the project without requiring competition for funds.

641—87.3(135) Applicant eligibility. Governmental or nonprofit agencies that ~~received grant funds in the previous fiscal year~~, are fully accredited by HFA, ~~and~~ or in the process of accreditation by HFA are eligible to apply to the department during a competitive year and are eligible applicants for funding. The purpose of the applications is to administer HOPES-HFI services for a specified project period in an at-risk community, as defined in the request for proposals, with an annual continuation application.

641—87.4(135) Participant eligibility. Families must meet the following requirements to be eligible to participate in the HOPES-HFI program: (1) A family member is pregnant or the family has a child aged birth ~~to five years~~ through three years; ~~and~~ (2) The family is determined to be eligible for enrollment according to a universal risk assessment as defined by HFA standards; and (3) The family resides within the at-risk community.

641—87.5(135) Program requirements. Contractors shall meet the following minimum program requirements:

87.5(1) Accreditation. Contractors shall comply with Healthy Families America (HFA) standards and maintain HFA ~~or Council on Accreditation (COA)~~ accreditation status. HOPES-HFI contractors will be required to submit evidence of reaccreditation reports to the department within 30 days of receipt. Applicants that are not fully accredited with HFA at the time of application must become accredited within three years of the initial contract execution.

87.5(2) Participant identification. Contractors shall collaborate with health care, human services, education, and other partners serving pregnant women and women of childbearing age to identify families who are at risk in order to promote positive birth and parenting outcomes.

87.5(3) Standardized tools. Contractors shall utilize standardized tools approved by the department to assess and reassess a participant’s risk status and achievements and the appropriate level of service.

87.5(4) Quality assessment and improvement. Contractors shall develop a process for annual program evaluation. The process shall include the following:

a. The outcome of the program evaluation shall be reviewed by the program’s governing or advisory board with recommendations made for program improvement.

b. The evaluation shall demonstrate the effectiveness of the program through program outcomes, including acceptance and retention rates.

[Filed 3/13/20, effective 5/13/20]

[Published 4/8/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5015C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Rule making related to volunteer health care provider program

The Public Health Department hereby amends Chapter 88, “Volunteer Health Care Provider Program,” Iowa Administrative Code.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 135.24.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135.24.

Purpose and Summary

A quality improvement (QI) group was formed to evaluate the Volunteer Health Care Provider Program (VHCPP). The group consists of representatives from the Department, the Boards of Medicine and Nursing, and the Dental Board and representatives from Free Clinics of Iowa. These amendments are an outcome of this QI process.

These amendments streamline the program administration without adding additional risk to the State for its role in providing legal representation for VHCPP participants in the event of a claim. These amendments:

1. Update the definition of “health care facility” to reflect current terminology.
2. Include new definitions for “license,” “permanent site” and “temporary site.”
3. Change the individual volunteer health care provider eligibility application and agreement. The changes focus on licensing the provider applicant for those practices for which the provider is licensed and which are covered in subrule 88.5(1) as allowable activities. The requirement to identify a particular clinic in the provider agreement is removed since that requirement is not included in the Iowa Code. An individual clinic that will use the individual volunteer health care provider services will have to check the provider VHCPP agreement to ensure that the services align with the clinic’s VHCPP-covered services.
4. Change the protected clinic eligibility requirements as follows:
 - The clinic shall provide a list of providers only when the Department asks for one. It is anticipated that this request will be made when a claim is filed for a service provided at the clinic.
 - The clinic will only be covered for services provided by providers under the categories noted in rule. The Department does not need to have the list, because it changes. It is the responsibility of the clinic to track this for the clinic’s own protection.
5. Change the rule for the sponsor entities and protected clinics as follows:
 - The requirement that the application include the exact days and times of service provision is removed. The liability coverage will be for one hour prior to the provision of covered services through one hour after the provision of covered services and will be noted in the VHCPP agreement.
 - A requirement to identify a site as a permanent site or temporary site is added. This change informs a subsequent rule on the length of agreements and how an acknowledgment and approval process for identified changes in the locations of temporary sites would be handled differently from a change in the location of a permanent site, which would necessitate an agreement amendment.
6. Revise the terms of agreement as follows:
 - The length of the agreement is changed from two years to five years to lessen the administrative burden.
 - How the Department will handle changes to temporary sites versus how it will handle changes to permanent sites for approvals and amendments to VHCPP agreements is specified.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 15, 2020, as **ARC 4853C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board of Health on March 11, 2020.

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Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department's waiver and variance procedures contained in 641—Chapter 178.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend rule **641—88.2(135)**, definition of “Health care facility,” as follows:

“*Health care facility*” means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

ITEM 2. Adopt the following new definitions of “License,” “Permanent site” and “Temporary site” in rule **641—88.2(135)**:

“*License*” means a license, certification or registration issued to a person by a licensing authority which evidences the granting of authority to engage in a profession or occupation.

“*Permanent site*” means a site at which free health care services will be provided on a continuous basis.

“*Temporary site*” means a site at which free health care services will be provided for a short period of time not to exceed three days. “Temporary site” includes but is not limited to temporary health fairs, flu shot clinics, and temporary sites that provide back-to-school physicals.

ITEM 3. Rescind subparagraphs **88.3(1)“a”(1) to (4)**.

ITEM 4. Amend paragraphs **88.3(1)“b”** and **“c”** as follows:

b. Application. The applicant shall submit the following information on forms provided by the VHCPP:

(1) The ~~patients to be served~~ individual volunteer health care provider current licensure identification number and expiration date;

~~(2) The health care services to be provided;~~

~~(3) The site where health care services are to be provided;~~

~~(4) The days and maximum number of hours when the free health care services will be provided each week at each site;~~

(5) (2) The health care services to be voluntarily provided that will be provided meet all of the following requirements:

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1. The services fall under the individual volunteer health care provider's licensed scope of practice;

2. The services are covered health care services listed in paragraph 88.5(1) "d"; and

3. The individual volunteer health care provider applicant is willing to voluntarily provide the health care services to those persons who are uninsured and underinsured for the public health purpose of improved health, prevention of illness/injury, and disease management.

c. Agreement. The individual volunteer health care provider shall have a signed and current protection agreement with the VHCPP which identifies the covered health care services within the respective scope of practice and conditions of defense and indemnification as provided in rules 641—88.5(135) and 641—88.6(135). The protection agreement shall:

~~(1) Provide that the individual volunteer health care provider shall perform only those health care services identified and approved by the VHCPP;~~

~~(2) Identify the health care services to be provided by the sponsor entity or protected clinic which has been approved by the VHCPP through an application process;~~

~~(3) Identify by category the patient groups to be served;~~

~~(4) Identify the sites at which the free health care services will be provided;~~

~~(5) Identify the maximum amount of time the free health care services will be provided by the individual volunteer health care provider at the identified sites each week;~~

~~(6) Provide that the individual volunteer health care provider shall maintain proper records of the health care services;~~

~~(7) Provide that the individual volunteer health care provider shall make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;~~

~~(8) Provide that the individual volunteer health care provider shall cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;~~

~~(9) Provide that the individual volunteer health care provider shall accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;~~

~~(10) Provide that the individual volunteer health care provider shall receive no direct monetary compensation of any kind for services provided in the VHCPP;~~

~~(11) Provide that the individual volunteer health care provider shall comply with the protection agreement with the VHCPP concerning approved health care services.~~

(1) The protection agreement is only valid during the time that the individual volunteer health care provider maintains a current unrestricted license and only for voluntary services provided in conjunction with a sponsor entity or protected clinic which has its own valid VHCPP protection agreement in effect at the time of service provision.

(2) The protection agreement with the VHCPP shall provide that the individual volunteer health care provider shall:

1. Perform only those health care services identified and approved by the VHCPP;

2. Promptly notify the VHCPP of any changes in licensure status;

3. Maintain proper records of the health care services;

4. Make no representations concerning eligibility for the VHCPP or eligibility of services for indemnification by the state except as authorized by the department;

5. Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

6. Accept financial responsibility for personal expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and

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lost practice, and copying costs, and agree that the state will not compensate the individual volunteer health care provider for the individual volunteer health care provider's expenses or time needed for the defense of the claim or suit;

7. Receive no direct monetary compensation of any kind for services provided in the VHCPP;

8. Comply with the protection agreement with the VHCPP concerning approved health care services.

ITEM 5. Amend subrule 88.3(2) as follows:

88.3(2) Protected clinic eligibility. To be eligible for protection as a state agency under Iowa Code chapter 669 for a claim arising from the provision of covered health care services at a protected clinic, the protected clinic shall satisfy each of the following conditions at the time of the act or omission allegedly resulting in injury:

a. The protected clinic shall comply with subrules 88.4(1) through 88.4(5).

b. The protected clinic shall ~~have provided~~, upon request from the department, provide to the department a list of all health care providers who ~~provide~~ provided health care services at the protected clinic at the time of a claim made against the individual health care provider or protected clinic which arises out of the provision of free health care service rendered or which should have been rendered by the individual volunteer health care provider or protected clinic.

c. The protected clinic shall ~~have submitted proof to the department that each~~ only be covered under the VHCPP for the provision of covered health care services by a health care provider providing health care services at the protected clinic who either:

(1) Holds a current individual volunteer health care provider protection agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license, registration, or certification to practice in Iowa under Iowa Code chapter 147A, 148, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 153, 154, 154B, 154C, 154D, 154F, or 155A.

d. The protected clinic shall submit a list of the clinic board of directors and contact information for the board of directors, if applicable.

e. If the protected clinic is a charitable organization within the meaning of Section 501(c)(3) of the Internal Revenue Code, the protected clinic shall provide proof of Section 501(c)(3) status to the VHCPP.

f. A protected clinic may allow health care profession students to volunteer at the protected clinic provided that the following conditions are satisfied:

(1) The college, university, or other health care profession educational institution provides professional liability insurance which covers the students; and

(2) The protected clinic or the health care profession institution provides general liability and professional liability insurance which covers the students; and

(3) The students provide only those services or activities as are authorized by the education agreement, and such services and activities are provided under the on-site supervision of a health care provider.

ITEM 6. Amend paragraph **88.4(3)“d”** as follows:

d. ~~The days and times when health care services are to be provided at each site~~ Classification of each site as a permanent site or temporary site;

ITEM 7. Amend subrule 88.4(4) as follows:

88.4(4) Agreement. A signed and current sponsor entity agreement or protected clinic agreement shall exist with the VHCPP which shall:

a. Provide that the individual volunteer health care provider or health care provider within a protected clinic and the individual volunteer health care provider within a sponsor entity shall perform only those health care services identified and approved by the VHCPP;

b. Identify by category the patient groups to be served;

c. Identify the sites at which the free health care services will be provided;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. ~~Identify the days and times when health care services are to be provided at each site as a permanent site or temporary site for the provision of free health care services through the VHCPP;~~

e. Provide that the sponsor entity or protected clinic shall maintain proper records of health care services for a period of seven years from the date of service or, in the case of a minor, for a period of one year after the minor has reached the age of majority; and

f. Provide that the sponsor entity agrees that only the individual volunteer health care provider or protected clinic covered under a current VHCPP protection agreement at the time of the service provision in a claim is afforded protection under Iowa Code section 135.24 and that the state assumes no obligation to the sponsor entity, its employees, officers, or agents. The sponsor entity or protected clinic shall submit a statement, which shall be submitted on forms provided by the VHCPP, attesting that the sponsor entity or protected clinic and its staff, employees and volunteers agree to:

(1) Cooperate fully with the state in the defense of any claim or suit relating to participation in the VHCPP, including attending hearings, depositions and trials and assisting in securing and giving evidence, responding to discovery and obtaining the attendance of witnesses;

(2) Accept financial responsibility for the sponsor entity's or protected clinic's expenses and costs incurred in the defense of any claim or suit related to participation in the VHCPP, including travel, meals, compensation for time and lost practice, and copying costs, and agree that the state will not compensate the sponsor entity or protected clinic for expenses or time needed for the defense of the claim or suit;

(3) Receive no direct monetary compensation of any kind for health care services provided in the sponsor entity or protected clinic;

(4) Comply with the sponsor entity agreement or protected clinic agreement with the VHCPP concerning approved health care services.

ITEM 8. Amend subrule 88.6(5) as follows:

88.6(5) The health care services are provided to a patient who is a member of a patient group identified in the sponsor entity or protected clinic protection agreement with the VHCPP.

ITEM 9. Amend rule 641—88.7(135) as follows:

641—88.7(135) Term of agreement.

88.7(1) *Individual volunteer health care provider.* The protection agreement with the VHCPP shall expire ~~two~~ five years from the date of execution. Individual volunteer health care providers may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement.

88.7(2) *Protected clinic.* The protection agreement with the VHCPP shall expire ~~two~~ five years from the date of execution. The protected clinic may apply for renewal by filing an application at least 30 days prior to expiration of the protection agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes shall be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites shall require a protection agreement amendment.

88.7(3) *Sponsor entity.* The sponsor entity agreement with the VHCPP shall expire ~~two~~ five years from the date of execution. Sponsor entities may apply for renewal by filing an application at least 30 days prior to expiration of the sponsor entity agreement. It is anticipated that temporary sites may change over the five-year period. An updated list of temporary site location or service provision changes shall be provided to the department for review and acceptance at least one week prior to service provision at the temporary site. Location or service provision changes to permanent sites shall require a protection agreement amendment.

ITEM 10. Amend rule 641—88.11(135) as follows:

641—88.11(135) Effect of suspension or revocation. If the VHCPP suspends or revokes an individual volunteer health care provider's protection agreement, sponsor entity protection agreement, or protected clinic's protection agreement, the action shall suspend or revoke future protection but shall not negate

PUBLIC HEALTH DEPARTMENT[641](cont'd)

defense and indemnification coverage for covered acts or omissions which occurred during the effective dates of the protection agreement.

[Filed 3/13/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5016C

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Rule making related to sports wagering and fantasy sports

The Racing and Gaming Commission hereby amends Chapter 1, "Organization and Operation," Chapter 3, "Fair Information Practices," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," and Chapter 8, "Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering," and adopts new Chapter 13, "Sports Wagering," and Chapter 14, "Fantasy Sports Contests," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 99D.7 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 99D, 99E and 99F.

Purpose and Summary

The amendments in this rule making implement 2019 Iowa Acts, Senate File 617, which became effective May 13, 2019, and which authorizes sports wagering and fantasy sports contests in Iowa. This rule making is intended to provide a framework and guidance to all industry participants and to protect the public and ensure the integrity of licensed facilities and participants. These amendments also reconcile existing rules with the new legislation and provide two new chapters of rules, Chapters 13 and 14.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 28, 2019, as **ARC 4617C**. This rule making was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 4618C** on the same date. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on December 18, 2019, as **ARC 4807C**. A public hearing was held on January 7, 2020, at 9 a.m. in the Commission Office, Suite 100, 1300 Des Moines Street, Des Moines, Iowa. No one attended the public hearing.

Since publication of the Amended Notice, several nonsubstantive changes based on input received from stakeholders have been made. The changes are in 13.5(5)"c," 13.7(2)"f," 14.6(1), 14.9(1), 14.11(3) and 14.13(1)"a." In addition, a few grammatical corrections and changes to improve consistency of terminology have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on March 10, 2020.

RACING AND GAMING COMMISSION[491](cont'd)

Fiscal Impact

The Commission will use existing budget and resources to implement these rules, including specific appropriations made during the 2019 Legislative Session for such purposes.

Jobs Impact

After analysis and review of this rule making, the Commission finds that the rule making is likely to have a positive jobs impact, which is difficult to measure at this time.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend rule 491—1.1(99D,99F) as follows:

491—1.1(99D,99E,99F) Function. The racing and gaming commission was created by Iowa Code chapter 99D and is charged with the administration of the Iowa pari-mutuel wagering Act and excursion boat gambling Act, sports wagering, and internet fantasy sports contests. Iowa Code chapters 99D, 99E and 99F mandate that the commission shall have full jurisdiction over and shall supervise all race meetings, ~~and~~ gambling operations, sports wagering, and internet fantasy sports contests governed by Iowa Code chapters 99D, 99E and 99F.

ITEM 2. Adopt the following new subrules 1.5(10) to 1.5(13):

1.5(10) Sports wagering for excursion gambling boat, gambling structure or racetrack enclosure application. This form shall contain, at a minimum, the full name of the applicant, disclosure of agreements involving sports wagering, a guarantee bond in an amount as determined by the commission, and a notarized certification of truthfulness. The applicant shall pay a nonrefundable application fee in the amount of \$45,000 to the commission.

1.5(11) Renewal application for sports wagering for excursion gambling boat, gambling structure or racetrack enclosure. This form shall contain, at a minimum, the full name of the applicant, a \$10,000 annual fee, disclosure of agreements involving sports wagering, sports wagering operations, internal controls, a guarantee bond in an amount as determined by the commission, a gambling treatment program, and a notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application.

1.5(12) Advance deposit sports wagering operator application. This form shall contain, at a minimum, the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, agreement with licensed facility or description of proposed operation, a gambling treatment program, and a

RACING AND GAMING COMMISSION[491](cont'd)

notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application.

1.5(13) *Internet fantasy sports contest application.* This form shall contain, at a minimum, the full name of the applicant, board members, all ownership interests, balance sheets and profit-and-loss statements for the fiscal year immediately preceding the application, pending legal action, proof of satisfactory segregation of internet fantasy sports contest player contest funds as determined by the commission, a description of the proposed operation and a notarized certification of truthfulness. The form may include other information the commission deems necessary to make a decision on the license application.

ITEM 3. Amend rule 491—1.7(99D,99F) as follows:

491—1.7(99D,99F) Criteria for granting licenses, renewing licenses, and determining race dates. The commission sets forth the following criteria which the commission will consider when deciding whether to issue a license to conduct racing or gaming or sports wagering in Iowa. The various criteria may not have the same importance in each instance, and other factors may present themselves in the consideration of an application for a license. The criteria are not listed in order of priority. After the initial consideration for issuing a license, applicable criteria need only be considered when an applicant has demonstrated a deficiency.

1.7(1) *Compliance.* The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99D.9 or 99F.4. The commission will also consider whether the proposed facility is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

1.7(2) *Gaming integrity.* The commission will consider whether the proposed operation would ensure that gaming is and sports wagering are conducted with a high degree of integrity in Iowa and that the officers, directors, partners, or shareholders of the operation are of good repute and moral character. The commission shall decide what weight and effect evidence about an officer, director, partner, or shareholder should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. For the purposes of this chapter, the term “directors” shall also include managers of limited liability companies and the term “shareholders” shall also include members of limited liability companies.

1.7(3) to 1.7(7) No change.

ITEM 4. Amend subrule 3.10(1) as follows:

3.10(1) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. to f. No change.

g. Information reported pursuant to Iowa Code sections 99E.8 and 99F.12 to any sports team or governing body having jurisdiction over sports teams.

ITEM 5. Amend subrule 3.13(2) as follows:

3.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to h. No change.

i. Information gathered during an investigation during pendency of the investigation or information requested for inspection by the commission or a representative of the commission. (Iowa Code sections 99D.7(9), 99D.19(3), 99E.3(2), 99E.8(2), 99F.4(6), 99F.12(2), and 99F.12(4))

j. No change.

k. Security plans, surveillance system plans and records, network audits, internal controls, and compliance records of the licensees that are made available to the commission that would enable law violators to avoid detection and give a clearly improper advantage to persons who are in an adverse position to the agency. (Iowa Code sections 17A.2, 17A.3, 22.7(18), 99D.19(3), 99E.8(4), 99F.12(2) “b” and 99F.12(4))

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l. Promotional play receipts records and marketing expenses. (Iowa Code sections 99D.19(3), 99E.8(4) and 99F.12(4))

m. Patron and customer records. (Iowa Code sections 99D.19(3), 99E.8(4) and 99F.12(4))

n. Supplemental schedules to the certified audit that are obtained by the commission in connection with the annual audit under Iowa Code sections 99D.20, 99E.9 and 99F.13. (Iowa Code sections 99D.19(3) and 99F.12(4))

o. No change.

ITEM 6. Amend rule 491—3.14(17A,22) as follows:

491—3.14(17A,22) Personally identifiable information. The commission maintains systems of records which contain personally identifiable information.

3.14(1) Board of stewards or gaming board hearings and contested case records. Records are maintained in paper and computer files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the board of stewards or gaming board hearing or contested case records as well as summary lists of enforcement activities.

Records are collected by authority of Iowa Code chapters 99D, 99E and 99F. None of the information stored in a data processing system is compared with information in any other data processing system.

3.14(2) Occupational licensing. Records associated with occupational licensing conducted under Iowa Code chapters 99D, 99E and 99F are maintained by this commission. The licensing system of records includes numerous files and crossfiles which include but are not limited to: computer storage of licensing records and photos, fingerprint cards, and license applications. The records associated with occupational licenses, which contain personally identifiable information, are open for public inspection only upon the approval of the administrator or the administrator's designee. The information stored in a data processing system is not compared with information in any other data processing system.

3.14(3) No change.

ITEM 7. Amend rule 491—4.2(17A), definition of "Gaming board," as follows:

"*Gaming board*" means a board established by the administrator to review conduct by occupational, excursion gambling boat, gambling structure, sports wagering, fantasy sports contest and gambling game licensees that may constitute violations of the rules and statutes relating to gaming. The administrator may serve as a board of one.

ITEM 8. Amend rule 491—4.4(99D,99F) as follows:

491—4.4(99D,99E,99F) Gaming representatives—licensing and regulatory duties.

4.4(1) No change.

4.4(2) The gaming representative or the administrator's designee shall monitor, supervise, and regulate the activities of occupational, pari-mutuel racetrack, sports wagering, fantasy sports contest, gambling game, excursion gambling boat, and gambling structure licensees. A gaming representative or the administrator's designee may investigate any questionable conduct by a licensee for any violation of the rules or statutes. A gaming representative or the administrator's designee may refer an investigation to the gaming board upon suspicion that a licensee or nonlicensee has committed a violation of the rules or statutes.

a. and *b.* No change.

4.4(3) A gaming representative or the administrator's designee shall summarily suspend an occupational license when a licensee has been formally arrested or charged with a crime that would disqualify the licensee, if convicted, from holding a license and the gaming representative or the administrator's designee determines that the licensee poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D, 99E or 99F. Upon proof of resolution of a disqualifying criminal charge or formal arrest, regardless of summary suspension of a license, the gaming representative shall take one of the following courses of action:

a. to *c.* No change.

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4.4(4) to 4.4(8) No change.

ITEM 9. Amend rule 491—4.5(99D,99F), parenthetical implementation statute, as follows:

491—4.5(99D,99E,99F) Gaming board—duties.

ITEM 10. Amend rule 491—4.7(99D,99F), introductory paragraph, as follows:

491—4.7(99D,99E,99F) Penalties (gaming board and board of stewards). All penalties imposed will be promptly reported to the commission and facility or other licensed entity in writing. The board may impose one or more of the following penalties: eject and exclude an individual from a facility; revoke a license; suspend a license for up to five years from the date of the original suspension; place a license on probation; deny a license; impose a fine of up to \$1000; or order a redistribution of a racing purse or the payment of or the withholding of a gaming payout. The board may set the dates for which the suspension must be served. The board may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by a state racing or gaming commission. If the punishment so imposed is not sufficient, in the opinion of the board, the board shall so report to the commission.

ITEM 11. Amend rule 491—4.8(99D,99F), parenthetical implementation statute, as follows:

491—4.8(99D,99E,99F) Effect of another jurisdiction's order.

ITEM 12. Amend rule 491—4.9(99D,99F), parenthetical implementation statute, as follows:

491—4.9(99D,99E,99F) Service of administrative actions.

ITEM 13. Amend rule 491—4.10(99D,99F), parenthetical implementation statute, as follows:

491—4.10(99D,99E,99F) Appeals of administrative actions.

ITEM 14. Amend rule 491—5.1(99D,99F) as follows:

491—5.1(99D,99F) In general. For purposes of this chapter, the requirements placed upon an applicant shall become a requirement to the licensee once a license to race or operate a gaming facility has been granted. Every license is granted upon the condition that the license holder shall accept, observe, and enforce the rules and regulations of the commission. It is the affirmative responsibility and continuing duty of each officer, director, and employee of said license holder to comply with the requirements of the application and conditions of the license and to observe and enforce the rules. The holding of a license is a privilege. The burden of proving qualifications for the privilege to receive any license is on the licensee at all times. A licensee must accept all risks of adverse public notice or public opinion, embarrassment, criticism, or financial loss that may result from action with respect to a license. Licensees further covenant and agree to hold harmless and indemnify the Iowa racing and gaming commission from any claim arising from any action of the commission in connection with that license. This chapter applies to a license to race or operate a gaming facility unless otherwise noted.

ITEM 15. Amend rule 491—5.2(99D,99F) as follows:

491—5.2(99D,99F) Annual reports. Licensees shall submit audits to the commission as required by Iowa Code sections 99D.20 and 99F.13.

5.2(1) The audit of financial transactions and condition of licensee's operation shall include:

a. No change.

b. Documentation that the ~~county board of supervisors selected the auditing firm~~ audit shall be conducted by certified public accountants authorized to practice in the state of Iowa under Iowa Code chapter 542;

c. and d. No change.

5.2(2) to 5.2(4) No change.

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~~5.2(5) Consolidated financial statements may be filed by commonly owned or operated establishments~~ For a licensed subsidiary of a parent company, an audit of the parent company may be filed with the following conditions:

~~a.~~ No change.

~~b. The auditing firm must audit and issue a report on the separate financial statements that expresses an opinion for each individual entity licensed in Iowa.~~

~~e. b.~~ Any internal audit staff assisting with the audit shall report any material errors, irregularities or illegal acts that come to the staff's attention during the course of an audit to the licensee's audit committee or senior management as required by the rules of professional conduct. The licensee shall report such material errors, irregularities or illegal acts to the commission in a timely manner following reporting to the licensee's audit committee or senior management.

~~d. c.~~ All other requirements in this rule are met and included for each entity licensed in Iowa unless an exception is granted in writing by the commission (or administrator).

5.2(6) No change.

5.2(7) The annual audit report required by Iowa Code section 99F.13 shall include:

a. A schedule detailing a weekly breakdown of adjusted gross revenue; taxes paid to the state, city, county, and county endowment fund; and regulatory fees.

b. A report on whether material weaknesses in internal accounting control exist. ~~A report shall be filed for each individual entity licensed in Iowa if a consolidated audit is provided.~~

5.2(8) No change.

ITEM 16. Amend rule 491—5.4(99D,99F) as follows:

491—5.4(99D,99F) Uniform requirements.

5.4(1) to 5.4(6) No change.

5.4(7) Video recording. Licensees shall conduct continuous surveillance with the capability of video recording all on-site gambling activities under Iowa administrative rules 661—Chapter 141, promulgated by the department of public safety.

a. "Gambling activities" means participating in or any form of wagering on gambling games on the gaming floor as defined by Iowa Code chapter 99F and approved by the commission; the movement, storage, and handling of uncounted gambling revenues; manual exchange of moneys for forms of wagering credit on the gaming floor; entrance of the public onto the gaming floor; and any other activity as determined by the commission administrator or administrator's designee.

b. to e. No change.

5.4(8) and 5.4(9) No change.

5.4(10) Taxes and fees.

a. No change.

b. Submission of gambling game taxes and fees.

(1) to (3) No change.

c. No change.

d. Submission of sports wagering net receipts taxes.

(1) A tax is imposed on the sports wagering net receipts received each fiscal year from sports wagering. "Sports wagering net receipts" means the gross receipts less winnings paid to wagerers on sports wagering. Voided and canceled transactions are not considered receipts for the purpose of this calculation. Any offering used to directly purchase a wager shall be considered receipts for the purpose of this calculation.

(2) All moneys collected for and owed to the state of Iowa under Iowa Code chapter 99F for the payment of sports wagering taxes shall be accounted for and itemized on a monthly basis, in a format approved by the commission, by noon on Wednesday following a gaming week's end in which the completed gaming week includes the last day of the month. All sports wagering taxes owed shall be received in the treasurer's office by 11 a.m. on the Thursday after accounting and itemization is due in the commission office. If sports wagering net receipts for a month are negative, a credit for sports wagering taxes may be given in the subsequent month.

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(3) Licensees under Iowa Code section 99F.7 or 99F.7A are responsible for the payment of all sports wagering taxes.

(4) Controls which easily allow for the designation and recording of sports wagering net receipts to an individual licensee and the redemption of winnings to the respective licensee shall be established by the licensee and approved by the administrator.

5.4(11) No change.

5.4(12) Problem gambling.

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

(1) No change.

(2) Comply with the process established by the commission to allow a person to be voluntarily excluded from the gaming floor of an excursion gambling boat, from the wagering area as defined in Iowa Code section 99D.2, from the sports wagering area as defined in Iowa Code section 99F.1(24), and from the gaming floor of all other licensed facilities or gambling activities regulated under Iowa Code chapters 99D and 99F; and

(3) No change.

b. and c. No change.

d. Money forfeited by a voluntarily excluded person pursuant to Iowa Code sections 99D.7(23) and 99F.4(22) shall be withheld by the licensee and remitted to the general fund of the state by the licensee under Iowa Code chapters 99D and 99F.

5.4(13) to 5.4(21) No change.

ITEM 17. Amend rule 491—6.1(99D,99F) as follows:

491—6.1(99D,99E,99F) Definitions.

“Applicant” means an individual applying for an occupational license.

“Beneficial interest” means any and all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

“Board” means either the board of stewards or the gaming board, as appointed by the administrator, whichever is appropriate. The administrator may serve as a board of one.

“Commission” means the Iowa racing and gaming commission.

“Commission representative” means a gaming representative, steward, or any person designated by the commission or commission administrator.

“Conviction” means the act or process of judicially finding someone guilty of a crime; the state of a person's having been proved guilty; the judgment that a person is guilty of a crime or criminal offense, which includes a guilty plea entered in conjunction with a deferred judgment, and a juvenile who has been adjudicated delinquent. The date of conviction shall be the date the sentence and judgment is entered.

“Deceptive practice” means any deception or misrepresentation made by the person with the knowledge that the deception or misrepresentation could result in some benefit to the person or some other person.

“Facility” means an entity licensed by the commission to conduct pari-mutuel wagering, ~~or~~ gaming or sports wagering operations in Iowa.

“Internet fantasy sports contest service provider” means a person, including a licensee under Iowa Code chapter 99D or 99F, who conducts an internet fantasy sports contest as authorized by Iowa Code chapter 99E.

“Jockey” means a person licensed to ride a horse in a race.

“Kennel/stable name” means any type of name other than the legal name or names used by an owner or lessee and registered with the commission.

“Licensee” means a person licensed by the commission to perform an occupation which the commission has identified as requiring a license for a person to work in the pari-mutuel, gambling

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structure, ~~or~~ excursion gambling boat, sports wagering or internet fantasy sports contest industry in Iowa.

“*Occupation*” means a license category listed on the commission’s occupational license application form.

“*Owner*” means a person or entity that holds any title, right or interest, whole or partial, in a racing animal.

“*Rules*” means the rules promulgated by the commission to regulate the racing and gaming industries, sports wagering, and internet fantasy sports contests.

“*Sports wagering*” means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. “Sports wagering” does not include placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is a participant, or placing a wager on the performance of athletes in an individual international sporting event governed by the international olympic committee in which any participant in the international sporting event is under 18 years of age.

“*Theft*” includes, but is not limited to:

1. The act of taking possession or control of either facility property or the property of another without the express authorization of the owner;
2. The use, disposition, or destruction of property in a manner which is inconsistent with or contrary to the owner’s rights in such property;
3. Misappropriation or misuse of property the person holds in trust for another; or
4. Any act which constitutes theft as defined by Iowa Code chapter 714. No specific intent requirement is imposed by rule 491—6.5(99D,99E,99F) nor is it required that there be any showing that the licensee received personal gain from any act of theft.

“*Year*” means a calendar year.

ITEM 18. Amend rule 491—6.2(99D,99F,252J) as follows:

491—6.2(99D,99E,99F,252J) Occupational licensing.

6.2(1) All licensees for internet fantasy sports contests and all persons participating in any capacity at a racing or gaming facility, with the exception of certified law enforcement officers while they are working for the facility as uniformed officers, are required to be properly licensed by the commission.

a. to h. No change.

i. Participation in racing and gaming, sports wagering, and internet fantasy sports contests in the state of Iowa is a privilege and not a right. The burden of proving qualifications to be issued any license is on the applicant at all times. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action, as well as any financial loss that may result from action with respect to an application.

j. to p. No change.

6.2(2) All facility board members and internet fantasy sports contest service provider board members shall undergo a background investigation and be licensed immediately upon appointment. For the purposes of this chapter, the term “board members” shall also include managers of limited liability companies.

6.2(3) to 6.2(6) No change.

ITEM 19. Amend rule 491—6.3(99D,99F), parenthetical implementation statute, as follows:

491—6.3(99D,99E,99F) Waiver of privilege.

ITEM 20. Amend rule 491—6.4(99D,99F), parenthetical implementation statute, as follows:

491—6.4(99D,99E,99F) License acceptance.

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ITEM 21. Amend rule 491—6.5(99D,99F) as follows:

491—6.5(99D,99E,99F) Grounds for denial, suspension, or revocation of a license or issuance of a fine. The commission or commission representative shall deny an applicant a license or, if a license is already issued, a licensee shall be subject to probation, fine, suspension, revocation, or other disciplinary measures, if the applicant or licensee:

6.5(1) Does not qualify under the following screening policy:

a. to d. No change.

e. A license shall be temporarily denied or suspended until the outcome of any pending charges is known if conviction would disqualify the applicant and the commission representative determines that the applicant poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D, 99E or 99F.

f. to k. No change.

l. A license shall be denied if the applicant is a board member of an internet fantasy sports contest service provider and is under the age of 21.

6.5(2) Has not demonstrated financial responsibility or has failed to meet any monetary obligation in the following circumstances connected with racing, ~~or~~ gaming, sports wagering, or an internet fantasy sports contest:

a. to c. No change.

6.5(3) Has been involved in any fraudulent or corrupt practices, including, but not limited to:

a. Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person licensed by the commission to violate these rules or the laws of the state related to racing, ~~or~~ gaming, sports wagering or internet fantasy sports contests.

b. No change.

c. Soliciting by any licensee, except the facility, licensed advance deposit sports wagering operator or licensed internet fantasy sports contest service provider of bets by the public.

d. No change.

e. Theft or deceptive practice of any nature on the premises of a facility or in the performance of duties associated with advance deposit sports wagering or internet fantasy sports contests.

f. No change.

g. Failing to comply with any request for information or any order or ruling issued by the commission representative pertaining to a racing, ~~or~~ gaming, sports wagering or internet fantasy sports contest matter.

h. No change.

i. Conduct in Iowa or elsewhere that has been dishonest, undesirable, or detrimental to, or reflects negatively on, the integrity or best interests of racing, and gaming, sports wagering or internet fantasy sports contests.

j. to l. No change.

m. Improperly influencing or attempting to improperly influence the results of a race, ~~or~~ a gambling game, a sporting event that is subject to sports wagering, or an internet fantasy sports contest, singularly or in combination with any person.

n. Failing to report any attempt to improperly influence the result of a race, ~~or~~ a gambling game, a sporting event that is subject to sports wagering, or an internet fantasy sports contest as in 6.5(3) "m" above.

o. to w. No change.

x. Communicating with or contacting a person who is voluntarily excluded pursuant to Iowa Code chapter 99D or 99F for gaming-related gaming-, wagering-, or internet fantasy sports contest-related activities.

ITEM 22. Amend rule 491—6.6(99D,99F), parenthetical implementation statute, as follows:

491—6.6(99D,99E,99F) Applications for license after denial, revocation, or suspension.

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ITEM 23. Amend rule 491—6.7(99D,99F), parenthetical implementation statute, as follows:

491—6.7(99D,99E,99F) Probationary period placed on a license.

ITEM 24. Amend rule 491—6.8(99D,99F), parenthetical implementation statute, as follows:

491—6.8(99D,99E,99F) Duration of license.

ITEM 25. Amend rule 491—6.9(99D,99F), parenthetical implementation statute, as follows:

491—6.9(99D,99E,99F) Licensed employees moving from one location to another.

ITEM 26. Amend rule 491—6.10(99D,99F) as follows:

491—6.10(99D,99E,99F) Required report of discharge of licensed employee. Upon discharge of any licensed employee by any licensed employer for violation of rules or laws within the jurisdiction of the commission, the employer must report that fact in writing, within 72 hours, to the local commission office, including the name and occupation of the discharged licensee. In the case of discharge of a board member of an internet fantasy sports contest service provider, the employer must report that fact in writing, within 72 hours, to the Des Moines commission office, including the name and occupation of the discharged licensee.

ITEM 27. Amend **491—Chapter 8**, title, as follows:

PARI-MUTUEL WAGERING, SIMULCASTING AND ADVANCE DEPOSIT WAGERING

ITEM 28. Amend rule **491—8.1(99D)**, definitions of “Account,” “Advance deposit wagering center” and “Advance deposit wagering operator,” as follows:

“*Account*” means an account approved by the commission for pari-mutuel advance deposit wagering with a complete record of credits, wagers and debits established by a licensee account holder and managed by a licensee or ADWO.

“*Advance deposit wagering center*” means an actual location, the equipment, and the staff of a licensee, ADWO, or both involved in the management, servicing and operation of the pari-mutuel advance deposit wagering for the licensee.

“*Advance deposit wagering operator*” or “*ADWO*” means an advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk County and the Iowa Horsemen’s Benevolent and Protective Association to provide pari-mutuel advance deposit wagering.

ITEM 29. Amend paragraph **8.6(2)“a”** as follows:

a. A person must have an established account in order to place advance deposit wagers. An account may be established in person at the licensee’s facility or with the ADWO by mail or electronic means. For establishing an account, the application must be signed or otherwise authorized in a manner acceptable to the commission and shall include the applicant’s full legal name, principal residence address, telephone number, and date of birth and any other information required by the commission. The licensee and ADWO shall have a process to verify that the player is not on the statewide self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account. The licensee and ADWO shall review and deactivate accounts of newly enrolled participants of the statewide self-exclusion program and comply with all other requirements set forth by the commission and in Iowa Code section 99F.4(22).

ITEM 30. Adopt the following **new** 491—Chapter 13:

CHAPTER 13
SPORTS WAGERING

491—13.1(99F) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

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“Administrator” means the administrator of the racing and gaming commission or the administrator’s designee.

“Advance deposit sports wagering” means a method of sports wagering in which an eligible individual may, in an account established with a licensee under Iowa Code section 99F.7A, deposit moneys into the account and use the account balance to pay for sports wagering. Prior to January 1, 2021, an account must be established by an eligible individual in person with a licensee.

“Advance deposit sports wagering operator” means an advance deposit sports wagering operator licensed by the commission who has entered into an agreement with a licensee under Iowa Code section 99F.7A to provide advance deposit sports wagering.

“Authorized sporting event” means a professional sporting event, collegiate sporting event, international sporting event, or professional motor race event. “Authorized sporting event” does not include a race as defined in Iowa Code section 99D.2, a fantasy sports contest as defined in Iowa Code section 99E.1, minor league sporting event, or any athletic event or competition of an interscholastic sport as defined in Iowa Code section 9A.102.

“Collegiate sporting event” means an athletic event or competition of an intercollegiate sport as defined in Iowa Code section 9A.102.

“Commission” means the racing and gaming commission created under Iowa Code section 99D.5.

“Designated sports wagering area” means an area, as designated by a licensee and approved by the commission, in which sports wagering is conducted.

“Eligible individual” means an individual who is at least 21 years of age or older who is located within this state.

“Facility” means an entity licensed by the commission to conduct pari-mutuel wagering, gaming or sports wagering operations in Iowa.

“International sporting event” means an international team or individual sporting event governed by an international sports federation or sports governing body, including but not limited to sporting events governed by the international olympic committee and the international federation of association football.

“Licensee” means any person licensed under Iowa Code section 99F.7 or 99F.7A.

“Minor league sporting event” means a sporting event conducted by a sports league which is not regarded as the premier league in the sport as determined by the commission.

“Professional sporting event” means an event, excluding a minor league sporting event, at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event.

“Sports wagering” means the acceptance of wagers on an authorized sporting event by any system of wagering as authorized by the commission. “Sports wagering” does not include placing a wager on the performance or nonperformance of any individual athlete participating in a single game or match of a collegiate sporting event in which a collegiate team from this state is a participant, or placing a wager on the performance of athletes in an individual international sporting event governed by the international olympic committee in which any participant in the international sporting event is under 18 years of age.

“Sports wagering net receipts” means the gross receipts less winnings paid to wagerers on sports wagering.

491—13.2(99F) Conduct of all sports wagering.

13.2(1) Commission policy. It is the policy of the commission to require that all industry participants conduct sports wagering in a manner suitable to protect the public health, safety, morals, good order, and general welfare of the state. Responsibility for selecting, implementing, and maintaining suitable methods of operation rests with the facility, vendor, and advance deposit sports wagering operator. Willful or persistent use or toleration of methods of operation deemed unsuitable in the sole discretion of the commission will constitute grounds for disciplinary action, up to and including revocation.

13.2(2) Activities prohibited. A facility, vendor, or advance deposit sports wagering operator is expressly prohibited from the following activities:

a. Failing to conduct advertising and public relations activities in accordance with decency, dignity, good taste, and honesty.

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b. Failing to comply with or make provision for compliance with all federal, state, and local laws and rules pertaining to the operation of a facility or advance deposit sports wagering operation including, but not limited to, payment of license fees, withholding payroll taxes, and violations of alcoholic beverage laws or regulations.

c. Permitting cheating, failing to discover cheating that should have been discovered with reasonable inquiry, or failing to take action to prevent cheating.

d. Failing to conduct sports wagering operations in accordance with proper standards of custom, decorum, and decency; or permitting any type of conduct that reflects negatively on the state or commission or acts as a detriment to the sports wagering industry.

e. Performing any type of sports wagering activity, at any time, that is contrary to the representation made to the commission, commission representatives, or the public.

f. Denying a commissioner or commission representative, upon proper and lawful demand, information, documents, or access to inspect any portion of the sports wagering operation.

13.2(3) *Wagers.* Wagers may only be made by persons 21 years of age or older and on activities authorized pursuant to Iowa Code chapter 99F which are approved by the commission.

13.2(4) *Public notice.* The public shall have access to the sports wagering rules, available wagers, odds or payouts, the payout period, and the source of the information used to determine the outcome of a sports wager. All licensees and advance deposit sports wagering operators shall require participants to follow the rules of play. The sports wagering rules shall be:

a. Displayed in the licensee's sports wagering area.

b. Posted on the internet site or mobile application used to conduct advance deposit sports wagering.

c. Included in any terms and conditions disclosure statements of the advance deposit sports wagering system.

13.2(5) *Bond.* A licensee shall post a bond or irrevocable letter of credit, at an amount determined by the commission, to the state of Iowa to guarantee that the licensee and any vendor or advance deposit sports wagering operator licensed in conjunction with the licensee faithfully makes the payments, keeps its books and records and makes reports, and conducts its gambling games and sports wagering in conformity with Iowa Code chapter 99F and the rules adopted by the commission.

13.2(6) *Reserve.* A reserve in the form of cash or cash equivalents segregated from operational funds, an irrevocable letter of credit, payment processor reserves and receivables, a bond, or a combination thereof, shall be maintained in the amount necessary to cover the outstanding sports wagering liability. An accounting of this reserve shall be made available for inspection to the commission upon request. The method of reserve shall be submitted to and approved by the administrator prior to implementation.

13.2(7) *Internal controls.* Licensees and advance deposit sports wagering operators shall submit a description of internal controls to the administrator. The submission shall be made at least 30 days before sports operations are to commence unless otherwise approved by the administrator. All internal controls must be approved by the administrator prior to commencement of sports operations. The operator shall submit to the administrator any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by the administrator. It shall be the affirmative responsibility and continuing duty of each licensee and advance deposit sports wagering operator and their employees to follow and comply with all internal controls. The submission shall include controls and reasonable methods that provide for the following:

a. To prohibit wagering by coaches, athletic trainers, officials, players, or other individuals who participate in an authorized sporting event in which wagers may be accepted.

b. To prohibit wagering by persons who are employed in a position with direct involvement with coaches, players, athletic trainers, officials, athletes or participants in an authorized sporting event in which wagers may be accepted.

c. To promptly report to the commission any criminal or disciplinary proceedings commenced against the licensee or its employees.

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d. To promptly report to the commission any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification. Integrity-monitoring procedures shall also provide for the sharing of information with other licensees, other governing authorities, and accredited sports governing entities by participating in an integrity-monitoring association or group or by another method as approved by the administrator.

e. To report within 72 hours any incident where an employee or customer is detected violating a provision of Iowa Code chapter 99F, a commission rule or order, or internal controls. In addition to the written report, the licensee or advance deposit sports wagering operator shall provide immediate notification to the commission if an incident involves employee theft, criminal activity, Iowa Code chapter 99F violations or sports wagering receipts.

f. The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee's duties.

g. User access controls for all sensitive and secure, physical and virtual, areas and systems within a sports wagering operation.

h. Treatment of problem gambling by:

- (1) Identifying problem gamblers.
- (2) Complying with the process established by the commission pursuant to Iowa Code section 99F.4(22) and 491—subrule 5.4(12).
- (3) Cooperating with the Iowa gambling treatment program in creating and establishing controls.
- (4) Making available to customers, patrons, and bettors a substantial number of the Iowa gambling treatment program advertisements and printed materials.

i. Setoff winnings of customers who have a valid lien established under Iowa Code chapter 99F.

13.2(8) Revenue reporting. Reports generated from the sports wagering system shall be made available as determined by the commission. The reporting system shall be capable of issuing reports by wagering day, wagering month, and wagering year. Wagering data shall not be purged unless approved by the commission. The reporting system shall provide for a mechanism to export the data for the purposes of data analysis and auditing or verification. The reporting system shall be able to provide, at a minimum, the following sports wagering information:

- a. The date and time each event started and ended.
- b. Total amount of wagers collected.
- c. Total amount of winnings paid to players.
- d. Total amount of wagers canceled, voided, and expired.
- e. Commission or fees collected.
- f. Total value of promotional play or free play used to purchase or execute a sports wager.
- g. Event status.
- h. Total amount held by the operator for the player accounts.
- i. Total amount of wagers placed on future events.
- j. Total amount of winnings owed but unpaid by the operator on winning wagers.

13.2(9) Unclaimed winnings and abandoned accounts. Unclaimed winnings and abandoned accounts are subject to the following requirements:

a. Unclaimed winnings of over 90 days at the close of a licensee's fiscal year shall be disallowed as a deduction from gross receipts for the calculation of sports wagering net receipts for the sports wagering tax.

b. Abandoned player accounts under this rule are subject to Iowa Code chapter 556.

c. Player accounts are considered abandoned if no activity by the account holder has occurred for three years. Player activity includes making a wager, making an account deposit, or withdrawing funds.

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d. No licensee or advance deposit sports wagering operator shall charge an administration fee or maintenance fee for any inactive player account derived from state of Iowa residents at any time for any reason.

491—13.3(99F) Approval of sports wagers.

13.3(1) *Approval.* Prior to offering a sports wager, a facility or advance deposit sports wagering operator shall request that the administrator investigate and approve the sports wager for compliance with commission rules and any other standards as required by the commission. The administrator may require the facility or advance deposit sports wagering operator, at the facility's or operator's own expense, to provide additional information as deemed necessary to make a determination. Prior to approval, the administrator may require a trial period of any sports wager offering. Once a sports wager is approved by the administrator, unless it is subsequently disapproved for any reason deemed appropriate by the administrator, the sports wager is available for all operators under the conditions approved and subject to subrule 13.3(2).

13.3(2) *Sports wager submissions.* Prior to conducting a sports wager approved pursuant to subrule 13.3(1), a licensee or advance deposit sports wagering operator shall submit proposals for the wager, including but not limited to wagering rules, payout information, source of the information used to determine the outcome of the sports wager, and any restrictive features of the wager. The sports wager submission, or requests for modification to an approved wager, shall be submitted in writing and approved by the administrator prior to implementation.

13.3(3) *Sports promotional contests, tournaments, or promotional activities.* Sports promotional contests, tournaments, or promotional activities may be permitted by the licensee, vendor, or advance deposit sports wagering operator providing the following:

- a.* Rules shall be made available to participants for review prior to registering. Rules shall include, at a minimum: all conditions registered players must meet to qualify to enter or advance through the event, available prizes or awards, fees, and distribution of prizes or awards based on specific outcomes.
- b.* Rules are followed. Changes to rules shall not be made after participants have registered.
- c.* Results shall be made available for the registered players to review at the same location at which or in the same manner in which players registered. Results shall include, at a minimum: name of the event, date of the event, total number of entries, amount of entry fees, total prize pool, and amount paid for each winning category.
- d.* Fees collected, less cash prizes paid, are subject to the wagering taxes pursuant to Iowa Code section 99F.11(4). In determining sports wagering net receipts, to the extent that cash prizes paid out exceed fees collected, the licensee or advance deposit sports wagering operator shall be deemed to have paid the fees for the participants.
- e.* There is compliance with all other federal, state, and local laws and rules outside of the commission's jurisdiction.

491—13.4(99F) Designated sports wagering area. A floor plan identifying the designated sports wagering area, including the location of any wagering kiosks, shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation. A sign shall denote that the area is not accessible to persons under the age of 21. Exceptions to this rule must be approved in writing by the administrator. The sports wagering area is subject to compliance with 491—subrule 5.4(7).

491—13.5(99F) Advance deposit sports wagering.

13.5(1) *Authorization to conduct advance deposit sports wagering.* A licensee or advance deposit sports wagering operator shall receive specific authorization from the commission to conduct advance deposit sports wagering prior to conducting advance deposit sports wagering. The granting of an advance deposit sports wagering license or approval of any agreements between a licensee and an advance deposit sports wagering operator to conduct advance deposit sports wagering does not constitute authorization. Any entity authorized to conduct advance deposit sports wagering is expected

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to comply with all requirements of this chapter, except for rule 491—13.4(99F), and all other applicable federal, state, local, and commission requirements.

13.5(2) Account registration. A person must have an established account in order to place advance deposit sports wagers. Prior to January 1, 2021, an account shall be established at the facility as required by Iowa Code section 99F.9(3A) with a process approved by the administrator. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, and any other information required by the administrator. The account registration process shall also include:

a. Age verification to prevent persons under the legal age for sports wagering from establishing an account.

b. Player verification of legal name, physical address, and age to correctly identify account holders.

c. Verification that the player is not on the statewide self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account.

d. Availability and acceptance of a set of terms and conditions that is also readily accessible to the player before and after registration and noticed when updated. Notices shall include, at a minimum, the following:

(1) Explanation of rules in which any unrecoverable malfunctions of hardware/software are addressed including, but not limited to, if the unrecoverable malfunction, wagering event cancellation, or other catastrophic malfunction results in the voiding of any wagers.

(2) Procedures to deal with interruptions caused by the suspension of data flow from the network server during an event.

(3) Specifications advising players to keep their account credentials secure.

(4) Statement that no underage individuals are permitted to participate in wagering.

(5) Explanation of conditions under which an account is declared inactive and actions undertaken on the account once this declaration is made.

e. Availability and acceptance of a privacy policy that is also readily accessible to the player before and after registration and noticed when updated and that includes, at a minimum, the following:

(1) Statement of information that is collected, the purpose for information collection, and the conditions under which information may be disclosed.

(2) Statement that any information obtained in respect to player registration or account establishment must be done in compliance with the privacy policy.

(3) Requirement that any information about player accounts which is not subject to disclosure pursuant to the privacy policy must be kept confidential, except where the release of that information is required by law.

(4) Requirement that all player information must be securely erased from hard disks, magnetic tapes, solid state memory, and other devices before the device is properly disposed of by the licensee. If erasure is not possible, the storage device must be destroyed.

13.5(3) Operation of an account. The advance deposit sports wagering operator or a licensee shall submit controls, approved by the commission, that include the following for operating an account:

a. Specific procedures and technology partners to fulfill the requirements set forth in subrule 13.5(2).

b. Location detection procedures to reasonably detect and dynamically monitor the location of a player attempting to place any wager. A player outside the permitted boundary shall be rejected, and the player shall be notified. The confidence radius shall be entirely located within the permitted boundary.

c. Specific controls set forth in subrule 13.2(7).

d. Limitation of one active account, per individually branded website, at a time unless otherwise authorized by the commission.

e. Authentication for log in through a username and password or other secure alternative means as authorized by the commission. Processes for retrieving lost usernames and passwords shall be available, secure, and clearly disclosed to the player. Players shall be allowed to change their passwords.

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f. Immediate notification to the player when changes are made to any account used for financial transactions or to registration information or when financial transactions are made unless other notification preferences are established by the player.

g. Process to immediately notify a player and lock an account in the event that suspicious activity is detected. A multifactor authentication process must be employed for the account to be unlocked.

h. Process to easily and prominently impose limitations or notifications for wagering parameters including, but not limited to, deposits and wagers. Upon receipt, any self-imposed limitations must be employed correctly and immediately as indicated to the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours.

i. Process to easily and prominently self-exclude from wagering for a specified period of time or indefinitely and easily and obviously direct participants, via a link, to exclude themselves pursuant to Iowa Code section 99F.4(22). Upon receipt, any self-exclusion limitations must be employed correctly and immediately as indicated to the player. No changes can be made to reduce the severity of the self-exclusion limitations for at least 24 hours. In the event of indefinite self-exclusion, the advance deposit sports wagering operator or licensee must ensure that the players are paid in full for their account balance within a reasonable time provided that the advance deposit sports wagering operator or licensee acknowledges that the funds have cleared. This control does not supersede the requirements set forth in Iowa Code section 99F.4(22).

j. Process to review and deactivate accounts of newly enrolled participants of the statewide self-exclusion program set forth in Iowa Code section 99F.4(22). The operator must ensure that players are paid in full for their account balance within a reasonable time provided that the operator acknowledges that the funds have cleared.

k. Provide for an easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be addressed by the advance deposit sports wagering operator or licensee.

13.5(4) *Account funds.* The following requirements apply to the maintenance of funds associated with a player account:

a. Positive player identification, including any personal identification number (PIN) entry or other approved secure methods, must be completed before the withdrawal of any moneys held by the advance deposit sports wagering operator or licensee can be made.

b. Payments from an account are to be paid directly to an account with a financial institution in the name of the player or made payable to the player and forwarded to the player's address or through another method that is not prohibited by state or federal law.

c. An advance deposit sports wagering operator or licensee must have in place security or authorization procedures to ensure that only authorized adjustments can be made to player accounts and that changes are auditable.

d. It shall not be possible to transfer funds between two player accounts.

e. An advance deposit sports wagering operator or licensee shall provide a transaction log or account statement history at no cost to players upon request. Information provided shall include sufficient information to allow players to reconcile the statement or log against their own financial records.

f. Requests for withdrawals shall not be unreasonably withheld and shall be completed in a timely manner.

g. An advance deposit sports wagering operator or licensee shall provide a fee-free method for players to deposit or withdraw funds from player accounts.

13.5(5) *Annual audit.* An audit of the advance deposit sports wagering operations for the advance deposit sports wagering operator or licensee or parent company of the advance deposit sports wagering operator or licensee shall be conducted by certified public accountants authorized to practice in the state of Iowa and provided to the commission within 90 days of the licensee's fiscal year and meet the following conditions:

a. Inclusion of an internal control letter, audited balance sheet, and audited profit-and-loss statement including a breakdown of expenditures and subsidiaries of advance deposit sports wagering activities.

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b. Inclusion of a supplement schedule indicating financial activities on a calendar-year basis if the advance deposit sports wagering operator's or licensee's fiscal year does not correspond to the calendar year.

c. Report of any material errors, irregularities that may be discovered during the audit, or notice of any audit adjustments.

d. Availability, upon request, of an engagement letter for the audit between the advance deposit sports wagering operator or licensee or parent company of the advance deposit sports wagering operator or licensee and the auditing firm.

13.5(6) *Wagers.* An advance deposit sports wagering operator shall display a player's wagers in a readily accessible manner.

491—13.6(99F) Testing.

13.6(1) *Initial testing.* All equipment and systems integral to the conduct of sports wagering and advance deposit sports wagering shall be tested and certified for compliance with commission rules and the standards required by a commission-designated independent testing laboratory. Certification and commission approval must be received prior to the use of any equipment or system to conduct sports wagering. The commission may designate more than one independent testing laboratory.

13.6(2) *Change control.* The licensees and advance deposit sports wagering operators shall submit change control processes that detail evaluation procedures for all updates and changes to equipment and systems to the administrator for approval. These processes shall include details for identifying criticality of updates and determining of submission of updates to an independent testing laboratory for review and certification.

13.6(3) *Annual testing.*

a. A system integrity and security risk assessment shall be performed annually on the advance deposit sports wagering system.

(1) The testing organization must be independent of the licensee and shall be qualified by the administrator.

(2) The system integrity and security risk assessment shall be conducted no later than 90 days after the start of the licensee's fiscal year.

(3) Results from the risk assessment shall be submitted to the administrator no later than 30 days after the assessment is conducted.

b. At the discretion of the administrator, additional assessments or specific testing criteria may be required.

491—13.7(99F) Licensing.

13.7(1) *Application and payment of fee.* The commission shall, upon payment of an initial license fee of \$45,000 and submission of an application consistent with the requirements of Iowa Code section 99F.6, issue a license to conduct sports wagering to a facility.

13.7(2) *Application procedure for a facility.* Application for a license for a facility to conduct sports wagering shall be made to the commission. In addition to the application, the following must be completed and presented when the application is filed:

a. Name of the entity to be licensed by the commission to conduct sports wagering operations in Iowa.

b. Disclosure of agreements with entities to manage or operate sports wagering with or on behalf of the facility.

c. Disclosure of operating agreements for up to two individually branded internet sites to conduct advance deposit wagering for the facility.

d. Compliance with Iowa Code section 99F.6(4) "a"(2) and (3) requirements for qualified sponsoring organizations or horse racing purses.

e. A bond or irrevocable letter of credit on behalf of the facility in an amount to be determined by the commission.

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f. A bank check, cashier's check, or wire transfer made payable to Iowa Racing and Gaming Commission for \$45,000 for an initial license or \$10,000 for a renewal license.

13.7(3) *Application procedure for an advance deposit sports wagering operator.* Application for a license for an advance deposit sports wagering operator with an agreement with a facility shall be made to the commission for approval by the administrator. In addition to the application, the following must be completed and presented when the application is filed:

a. Disclosure of ownership interest, directors, or officers of applicant.

(1) An applicant or licensee shall notify the administrator of the identity of each director, corporate officer, owner, partner, joint venture participant, trustee, or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require.

For purposes of this rule, the term "beneficial interest" includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

(2) For ownership interests of less than 5 percent, the administrator may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in subparagraph 13.7(3)"a"(1) above.

b. Investigative fees.

(1) Advance payment. The department of public safety may request payment of the investigative fee in advance as a condition to beginning investigation.

(2) Payment required. The administrator may withhold final action with respect to any application until all investigative fees have been paid in full.

c. A copy of each of the following:

(1) List of employees of the aforementioned who may have contact with persons within the state of Iowa.

(2) Agreement with facility to operate or manage the advance deposit sports wagering operation.

d. Any and all changes in the applicant's legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

e. The administrator may deny, suspend, or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, or professional qualifications, or due to failure to meet other criteria employed by the administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

f. Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

g. Public disclosure is made for the benefit of the public, and documents pertaining to the ownership filed with the administrator shall be available for public inspection in accordance with 491—Chapter 3.

13.7(4) *Supplementary information.* Each applicant shall promptly furnish the administrator with all additional information pertaining to the application or the applicant which the administrator may require. Failure to supply the requested information within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

13.7(5) *Temporary license certificates.*

a. A temporary license certificate may be issued at the discretion of the administrator.

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b. Any temporary license certificate issued at the discretion of the administrator shall be valid for a maximum of 120 calendar days from the date of issue. Failure to obtain a permanent license within the designated time may result in revocation of license eligibility, fine, or suspension.

13.7(6) *Withdrawal of application.* A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

13.7(7) *Record keeping.*

a. Record storage required. Licensees and advance deposit sports wagering operators shall maintain adequate records of business operations, which shall be made available to the administrator upon request. These records shall include:

(1) All correspondence with the administrator and other governmental agencies on the local, state, and federal level.

(2) All correspondence between the licensee and advance deposit sports wagering operators and any of their customers who are applicants or licensees under Iowa Code chapter 99F.

(3) A personnel file on each employee of the licensee and advance deposit sports wagering operator, including sales representatives.

(4) Financial records of all transactions with facilities and all other licensees and advance deposit sports wagering operators under these rules.

b. Record retention. Records other than those listed in subrule 13.2(8) shall be retained as required by 491—subrule 5.4(14).

13.7(8) *Violation of laws or regulations.* Violation of any provision of any laws of the state or of the United States of America or of any rules of the commission may constitute an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking or suspending the license, or fining the licensee or advance deposit sports wagering operator, or any combination of the above. The commission has the discretion to suspend mobile gaming operations of its licensees by written order if necessary.

These rules are intended to implement Iowa Code chapters 99D and 99F.

ITEM 31. Adopt the following new 491—Chapter 14:

CHAPTER 14
FANTASY SPORTS CONTESTS

491—14.1(99E) Definitions. As used in these rules, unless the context otherwise requires, the following definitions apply:

“Administrator” means the administrator of the racing and gaming commission or the administrator’s designee.

“Applicant” means an internet fantasy sports contest service provider applying for a license to conduct internet fantasy sports contests under this chapter.

“Commission” means the state racing and gaming commission created under Iowa Code section 99D.5.

“Entry fee” means cash or cash equivalent that is required to be paid by an internet fantasy sports contest player to an internet fantasy sports contest service provider in order to participate in a fantasy sports contest.

“Fantasy sports contest” or *“contest”* means a fantasy or simulated game or contest in which:

1. The fantasy sports contest operator is not a participant in the game or contest;
2. The value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest;
3. All winning outcomes reflect the relative knowledge and skill of the participants;
4. The outcome shall be determined by accumulated statistical results of the performance of individuals, including athletes in the case of sporting events; and

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5. No winning outcome is solely based on the score, point spread, or any performance or performances of any single actual team or solely on any single performance of an individual athlete or player in any single actual event. However, until May 1, 2020, “fantasy sports contest” does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99F.1.

“*Fantasy sports contest service provider*” means a person, including a licensee under Iowa Code chapter 99D, 99E or 99F, who conducts an internet fantasy sports contest as authorized by this chapter.

“*Highly experienced player*” means a person who has entered more than 1,000 contests conducted by a single fantasy sports contest service provider or has won more than three fantasy sports contest prizes of \$1,000 or more from a single fantasy sports contest service provider. A fantasy sports contest provider may declare other players a “highly experienced player” so long as the provider’s criteria for declaration would include players previously declared a “highly experienced player” by the provider.

“*Internal controls*” means the fantasy sports contest service provider’s system of internal controls.

“*Licensee*” means any person licensed under Iowa Code section 99E.5 to conduct internet fantasy sports contests.

“*Location percentage*” means, for each internet fantasy sports contest, the percentage, rounded to the nearest tenth of a percent, equal to the total charges and fees collected from all internet fantasy sports contest players located in this state divided by the total charges and fees collected from all participants in the internet fantasy sports contest.

“*Net revenue*” means an amount equal to the total entry and administrative fees collected from all participants entering fantasy sports contests less winnings paid to participants in the contest, multiplied by the location percentage.

“*Player*” or “*customer*” means a person who is at least 21 years of age and participates in an internet fantasy sports contest operated by an internet fantasy sports contest service provider.

“*Prize*” means anything of value, including cash or a cash equivalent, contest credits, merchandise or entry to another contest in which a prize may be awarded.

“*Script*” means a list of commands that a fantasy sports-related computer program can execute and is created by fantasy sports players, or by third parties for the use of all players, to automate processes on a fantasy sports contest internet platform.

491—14.2(99E) Application for fantasy sports contest service provider license and licensing. A fantasy sports contest service provider must be licensed by the commission to offer an internet fantasy sports contest under Iowa Code chapter 99E. Any individuals who are required to be occupationally licensed by the commission shall comply with the license requirements of Iowa Code section 99E.5 and rules 491—6.2(99D,99E,99F,252J) to 491—6.13(99D,99F,272D). Occupational licensees are also subject to 491—Chapter 4.

14.2(1) Licensing standards. Standards which shall be considered when determining the qualifications of an applicant shall include, but are not limited to, financial stability; business ability and experience; good character and reputation of the applicant as well as all directors, officers, partners, and employees and integrity of financial backers. For the purposes of this rule, the term “applicant” includes each member of the board of directors or other governing body of an applicant.

a. The commission shall not grant a license to an applicant if there is substantial evidence that any of the following apply:

(1) A license issued to the applicant to conduct internet fantasy sports contests in another jurisdiction has been revoked, or a request for a license to conduct internet fantasy sports contests in another jurisdiction has been denied, by an entity licensing persons to conduct such contests in that jurisdiction.

(2) The applicant has not demonstrated financial responsibility sufficient to adequately meet the requirements of the enterprise proposed.

(3) The applicant does not adequately disclose the true owners of the enterprise proposed.

(4) The applicant has knowingly made a false statement of a material fact to the commission.

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(5) The applicant has failed to meet a monetary obligation in connection with conducting an internet fantasy sports contest.

(6) The applicant is not of good repute and moral character or the applicant has pled guilty to, or has been convicted of, a felony.

(7) Any member of the board of directors or governing body of the applicant is not 21 years of age or older.

b. A person who knowingly makes a false statement on the application is guilty of an aggravated misdemeanor.

14.2(2) *Application procedure.* Application for an internet fantasy sports contest service provider license shall be made to the commission on the form prescribed and published by the commission. In addition to the application, the following must be completed and presented when the application is filed:

a. Disclosure of ownership interest, directors, or officers of applicant.

b. The identity and date of birth of each member of the board of directors or other governing body of the applicant.

c. The identity of each director, corporate officer, owner, partner, joint venture participant, trustee, or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require. For purposes of this rule, the term “beneficial interest” includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

d. For ownership interests of less than 5 percent, the administrator may request a list of these interests. At a minimum, the list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in subrule 14.2(1).

e. A list of employees of the aforementioned who may be conducting business directly or indirectly on behalf of the applicant in the state of Iowa.

f. A bond or irrevocable letter of credit on behalf of the applicant or other satisfactory evidence, as determined by the commission, of a safe and reliable means of fulfilling the applicant’s obligations to customers and the state of Iowa in an amount determined by the commission.

14.2(3) *Investigative fee.*

a. Advance payment. The department of public safety may request payment of the investigative fee in advance as a condition to beginning the investigation.

b. Payment required. The administrator may withhold final action with respect to any application until all investigative fees have been paid in full.

14.2(4) *Application fee.* A bank or cashier’s check shall be made payable to Iowa Racing and Gaming Commission for \$5,000.

14.2(5) *Reporting of changes.* Any and all changes in the applicant’s legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

14.2(6) *Ineligibility.* The administrator may deny, suspend, or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, or professional qualifications, or due to failure to meet other criteria employed by the administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

14.2(7) *Disclosure.* Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

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14.2(8) *Public disclosure.* Disclosure is made for the benefit of the public, and all documents pertaining to the ownership filed with the administrator shall be available for public inspection.

14.2(9) *Supplementary information.* Each applicant shall promptly furnish the administrator with all additional information pertaining to the application or the applicant which the administrator may require. Failure to supply the requested information within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

14.2(10) *Requirements placed upon applicants and licensees.* For purposes of this chapter, the requirements placed upon an applicant shall become a requirement to the licensee once a license has been granted. Every license is granted upon the condition that the license holder shall accept, observe, and enforce the rules and regulations of the commission. It is the affirmative responsibility and continuing duty of each officer, director, and employee of said license holder to comply with the requirements of the application and conditions of license and to observe and enforce the rules. The holding of a license is a privilege. The burden of proving qualifications for the privilege to receive any license is on the licensee at all times. A licensee must accept all risks of adverse public notice or public opinion, embarrassment, criticism, or financial loss that may result from action with respect to a license. Licensees further covenant and agree to hold harmless and indemnify the Iowa racing and gaming commission from any claim arising from any action of the commission in connection with that license.

491—14.3(99E) Temporary license certificates.

14.3(1) A temporary license certificate may be issued at the discretion of the administrator.

14.3(2) Any temporary license certificate issued at the discretion of the administrator shall be valid for a maximum of 120 calendar days from the date of issue. Failure to obtain a permanent license within the designated time may result in revocation of license eligibility, fine, or suspension.

491—14.4(99E) Withdrawal of application. A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

491—14.5(99E) Fees.

14.5(1) *Initial license.* Once the commission is satisfied that the requirements of this chapter have been met, an applicant will be granted an initial license for up to three years.

14.5(2) *Annual license fee.* After the initial licensing period, a licensee shall pay an annual fee of \$1,000 for licensees with a yearly adjusted gross revenue under \$150,000 or \$5,000 for licensees with a yearly adjusted gross revenue of \$150,000 or greater. The administrator shall set the time period for determining a licensee's adjusted gross revenue. Licenses must be renewed annually in a manner established by the commission.

491—14.6(99E) Taxes.

14.6(1) The licensee shall pay a tax rate pursuant to Iowa Code section 99E.6 on adjusted revenue from fantasy sports contests. "Adjusted revenue" means the amount equal to the total charges and fees collected from all participants entering the fantasy sports contest less winnings paid to participants in the contest, multiplied by the location percentage defined in Iowa Code section 99E.1. Charges and fees returned to participants due to a participant withdrawing the participant's entry from a fantasy sports contest shall not be considered when calculating the adjusted revenue.

14.6(2) Voided and canceled transactions are not considered receipts for the purpose of this calculation.

14.6(3) Any offering used to directly participate in a contest shall be considered receipts for the purpose of this calculation.

14.6(4) Any other fee collected to participate in a fantasy sports contest shall be subject to the wagering tax pursuant to Iowa Code section 99E.6.

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14.6(5) All moneys collected for and owed to the state of Iowa under Iowa Code chapter 99E for the payment of fantasy sports contests shall be accounted for and itemized on a monthly basis, in a format approved by the commission, by noon on Wednesday following a gaming week's end as defined by 491—subparagraph 5.4(10)“b”(1) in which the completed gaming week includes the last day of the month. All fantasy sports contest fees owed shall be received in the treasurer's office by 11 a.m. on the Thursday after accounting and itemization is due in the commission office.

491—14.7(99E) Account registration. A person must have an established account in order to participate in fantasy sports contests. To establish an account, an application for an account shall be authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth and any other information required by the commission. The account registration process shall also include:

14.7(1) Age verification to prevent persons under the legal age from participating in fantasy sports contests and establishing an account.

14.7(2) Customer verification of legal name, physical address and age to correctly identify account holders.

14.7(3) Verification that the customer is not on the statewide self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account.

14.7(4) Availability and acceptance of a set of terms and conditions that are also readily accessible to the customer before and after registration and noticed when updated. Notices shall include, at a minimum, the following:

a. Explanation of rules in which any unrecoverable malfunctions of hardware/software are addressed including, but not limited to, if the unrecoverable malfunction, fantasy sports event cancellation, or any other catastrophic malfunction results in the voiding of any contests.

b. Procedures to deal with interruptions caused by the suspension of data flow from the network server during a contest.

c. Specifications advising customers to keep their account credentials secure.

d. Statement that no underage individuals are permitted to participate in contests.

14.7(5) Availability and acceptance of a privacy policy that is also readily accessible to the customer before and after registration and noticed when updated that includes, at a minimum, the following:

a. Statement of information that is collected, the purpose for information collection and the conditions under which information may be disclosed.

b. Statement that any information obtained in respect to customer registration or account establishment must be done in compliance with the privacy policy.

c. Requirement that any information about customer accounts which is not subject to disclosure pursuant to the privacy policy must be kept confidential, except where the release of that information is required by law.

d. Requirement that all customer information must be securely erased from hard disks, magnetic tapes, solid state memory and other devices before the device is properly disposed of by the licensee. If erasure is not possible, the storage device must be destroyed.

491—14.8(99E) Fantasy sports contest service provider requirements.

14.8(1) Internal controls. Licensees shall submit a description of internal controls to the administrator. The submission shall be made at least 30 days before fantasy sports contest operations are to commence unless otherwise approved by the administrator. All internal controls must be approved by the administrator prior to commencement of contest operations. The service provider shall submit to the administrator any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by the administrator. It shall be the affirmative responsibility and continuing duty of each licensee and its employees to follow and comply with all internal controls. The submission shall include controls and reasonable methods that comply with and provide for:

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- a.* Prevention of employees of the internet fantasy sports contest service provider and relatives living in the same household of such employees from competing in any internet fantasy sports contest on the service provider's digital platform in which the service provider offers a prize to the public.
- b.* Verification that any fantasy sports contest player is 21 years of age or older.
- c.* Restriction of entries from coaches, officials, athletes, contestants, or other individuals who participate in a game or contest that is the subject of an internet fantasy sports contest in which the outcome is determined, in whole or in part, by the accumulated statistical results of a team of individuals in the game or contest in which they participate.
- d.* An easy and obvious method for a player to make a complaint and to enable the player to notify the commission if such complaint has not been or cannot be resolved by the licensee.
- e.* Measures used to determine the true identity, date of birth, and address of each player seeking to open an account.
- f.* Standards and procedures used to monitor fantasy sports contests to detect the use of unauthorized scripts and restrict players found to have used such scripts from further fantasy sports contests.
- g.* Prevention of unauthorized withdrawals from a registered player's account by the service provider or others.
- h.* How the service provider will accept wagers within the permitted boundary.
- i.* How the service provider will segregate fantasy sports contest player funds from operational funds.
- j.* Protection of a fantasy sports contestant's personal and private information.

14.8(2) *Records.* Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered by the commission. The licensees shall ensure all books and records and their retention comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution.

14.8(3) *Reporting.* The licensee shall provide immediate notification of any facts which the licensee has reasonable grounds to believe indicate a violation of law or commission rule committed by licensees, their key persons, or their employees, including without limitation the performance of licensed activities different from those permitted under their license. The licensee is also required to provide a detailed written report within 72 hours from the discovery for any of the following:

- a.* Criminal or disciplinary proceedings commenced against the service provider in connection with its operations;
- b.* Abnormal contest activity or patterns that may indicate a concern about the integrity of an internet fantasy sports contest;
- c.* Any other conduct with the potential to corrupt an outcome of an internet fantasy sports contest for purposes of financial gain, including but not limited to match fixing;
- d.* Suspicious or illegal internet fantasy sports contest activities, including the use of funds derived from illegal activity, deposits of money to enter an internet fantasy sports contest to conceal or launder funds derived from illegal activity;
- e.* The use of agents to enter an internet fantasy sports contest or use of false identification.

14.8(4) *Technical and testing requirements.*

a. Initial testing. All equipment and systems integral to the conduct of fantasy sports contests shall be tested and certified for compliance with commission rules and the standards required by a commission-designated independent testing laboratory. Certification and commission approval must be received prior to the use of any equipment or system to conduct a fantasy sports contest. The commission may designate more than one independent testing laboratory.

b. Change control. The fantasy sports contest service providers shall submit change control processes that detail evaluation procedures for all updates and changes to equipment and systems to the administrator for approval. These processes shall include details for identifying criticality of updates and determining of submission of updates to an independent testing laboratory for review and certification.

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c. Annual testing.

(1) A system integrity and security risk assessment shall be performed annually on the fantasy sports contest system.

1. The testing organization must be independent of the licensee and shall be qualified by the administrator.

2. The system integrity and security risk assessment shall be conducted no later than 90 days after the start of the licensee's fiscal year.

3. Results from the risk assessment shall be submitted to the administrator no later than 30 days after the assessment is conducted.

(2) At the discretion of the administrator, additional assessments or specific testing criteria may be required.

d. Limit on number of websites and platforms. A fantasy sports contest service provider is authorized to conduct no more than two websites or platforms maintained and operated by the service provider.

14.8(5) Operating requirements. A fantasy sports contest service provider shall ensure the following:

a. Players winning fantasy sports contests shall have winning funds deposited into their player account or be paid by other means approved by the administrator within 48 hours from the end of the contest. Players shall have a fee-free method to deposit or withdraw funds from their player account. If funds are unable to be placed in a player's account, the fantasy sports contest service provider shall mail the funds to the player's address on file within ten days.

b. Player withdrawal of funds maintained in the player account shall be completed within five business days of the request unless the licensed fantasy sports contest service provider believes, in good faith, that the player engaged in fraud or other illegal activity pursuant to Iowa Code chapter 99D, 99E or 99F.

c. Procedures allow for a player to close an account and to access the player's history, including all fantasy sports contests in which the player participated.

d. Employees of the licensee are prohibited from participation in any fantasy sports contest offered by the licensee in which a cash prize is offered to the public. This includes prohibiting relatives living in the same household as such employees from competing in any fantasy sports contests offered by any licensee.

e. Prohibition of the sharing of confidential information that could affect fantasy sports contest play with third parties until the information is made publicly available.

f. Players are allowed to voluntarily self-exclude in compliance with Iowa Code section 99F.4(22), and a fantasy sports contest service provider shall follow all resolutions associated with the process.

491—14.9(99E) Contest rules.

14.9(1) Prior to conducting a new type of fantasy sports contest, a fantasy sports contest service provider shall submit proposed contest rules to the administrator. The contest submission shall be in writing and approved by the administrator prior to implementation. The administrator shall approve, deny, or request further information within three business days of submission. If the administrator takes no action within that period, the fantasy sports contest service provider may offer the requested contest unless the administrator issues a subsequent disapproval. Once a contest is approved, the contest is available for all fantasy sports contest service providers unless the contest format is subsequently disapproved by the administrator for any reason the commission deems appropriate. Fantasy sports contest service providers may offer minor variations of an approved contest type without seeking administrator approval. Minor variations include:

a. Offering the contest format for any sport, league, association or organization previously approved by the administrator for any fantasy sports contest type;

b. The size of the contest and number of entries permitted;

c. Nonmaterial changes to entry fee and prize structure;

d. The number of athletes that a contestant selects to fill a roster when completing an entry;

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- e.* The positions that must be filled when completing an entry;
- f.* Adjustments to the scoring system; and
- g.* Adjustments to a salary cap.

14.9(2) Licensees are required to comply with and ensure the following:

- a.* Advertisements for contests and prizes offered by a licensee shall not target prohibited participants, underage persons, or self-excluded persons.
- b.* The values of all prizes and awards offered to winning players must be established and made known to the players in advance of the contest.
- c.* Introductory procedures for players are prominently displayed on the main page of the licensee's platform to explain contest play and how to identify a highly experienced player.
- d.* Identification of all highly experienced players in every fantasy sports contest by a symbol attached to the players' usernames, or by other easily visible means, on all platforms supported by the licensee.
- e.* Contests are not offered based on the performance of participants in high school or youth sports events. However, until May 1, 2020, "fantasy sports contest" does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99E.1.
- f.* Representations or implications about average winnings from contests shall not be unfair or misleading.
- g.* Prohibition of the use of unauthorized third-party scripts or unauthorized scripting programs for any contest and ensure that measures are in place to deter, detect, and prevent cheating to the extent reasonably possible. "Cheating" includes collusion and the use of cheating devices, including the use of software programs that submit entry fees or adjust the athletes selected by a player.
- h.* Prominent display of information about the maximum number of entries that may be submitted for that contest for all advertised fantasy sports contests.
- i.* Disclosure of the number of entries that a player may submit to each fantasy sports contest and provide reasonable steps to prevent players from submitting more than the allowable number.
- j.* Opportunity for players to file a patron dispute.
- k.* Conspicuously disclose the source of the data utilized in any results.

491—14.10(99E) Segregation account requirements and financial reserves.

14.10(1) Segregation. Fantasy sports contest service providers shall segregate all fantasy sports contest player funds from operational funds.

14.10(2) Financial reserves. For the protection of the funds of contest participants held in paid fantasy sports accounts, the fantasy sports contest service provider shall maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, payment processor reserves and receivables, a bond, or a combination thereof in the amount of the deposits in internet fantasy sports contest player accounts.

- a.* The method of reserve shall be submitted and approved by the commission prior to implementation.
- b.* The amount of the reserve shall be equal to, at a minimum, the sum of all registered players' funds held in player accounts originating in Iowa.
- c.* If, at any time, the licensee's total available cash and cash equivalent reserve is less than the amount required, the licensee shall notify the commission of this deficiency within 48 hours.
- d.* Each licensee shall continuously monitor and maintain a record of all player deposits and the licensee's cash reserves to ensure compliance with the cash reserves requirement.
- e.* The licensee shall provide the commission with documentation including the amount of deposits in players' accounts and the amount in cash reserves as of the last day of each month. The information is due by the fifteenth day of the month for the preceding month.

491—14.11(99E) Annual audit. An audit of the fantasy sports contest operations for the licensee or parent company of the licensee shall be conducted by certified public accountants authorized to practice

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in the state of Iowa and provided to the commission within 180 days of the licensee's fiscal year and meet the following conditions:

14.11(1) Inclusion of an internal control letter, audited balance sheet, and audited profit-and-loss statement including a breakdown of expenditures and subsidiaries of fantasy sports contest activities.

14.11(2) Inclusion of a supplement schedule indicating financial activities on a calendar-year basis if the licensee's fiscal year does not correspond to the calendar year.

14.11(3) Report of any material errors, irregularities that may be discovered during the audit, or notice of any audit adjustments.

14.11(4) Availability, upon request, of an engagement letter for the audit between the licensee or parent company of the licensee and the auditing firm.

491—14.12(99E) Abandoned accounts.

14.12(1) Abandoned player accounts under this rule are subject to Iowa Code chapter 556. Player accounts are considered abandoned if no activity by the account holder has occurred for three years. Player activity includes entering a contest, making an account deposit, or withdrawing funds.

14.12(2) No internet fantasy sports contest service provider shall charge an administration fee or maintenance fee for any inactive player account derived from state of Iowa residents at any time for any reason.

491—14.13(99E) Problem gambling.

14.13(1) The licensee shall adopt and implement the following:

a. Policies and procedures designed to identify compulsive play.

b. Policies and procedures designed to comply with the process established by the commission pursuant to Iowa Code section 99F.4(22).

c. Policies and procedures designed to cooperate with the Iowa gambling treatment program in creating and establishing controls.

d. Policies and procedures designed to make information available to customers concerning assistance for compulsive play in Iowa, including websites or toll-free numbers directing customers to reputable resources containing further information, which shall be free of charge.

e. A process to easily and prominently impose limitations or notifications for deposits and monetary participation in a contest. Upon receipt, any self-imposed limits must be employed correctly and immediately as indicated to the player. No changes can be made reducing the severity of the self-imposed limitations for at least 24 hours.

f. A process to easily and prominently self-exclude for a specified period of time or indefinitely and easily and obviously direct participants, via a link, to exclude themselves pursuant to Iowa Code section 99F.4(22). Upon receipt, any self-exclusion limits must be employed correctly and immediately as indicated to the player. No changes can be made to reduce the severity of the self-exclusion limitations for at least 24 hours. In the event of indefinite self-exclusion, the licensee must ensure that the player is paid in full for the player's account balance within a reasonable time provided that the licensee acknowledges that the funds have cleared. This control does not supersede the requirements set forth in Iowa Code section 99F.4(22).

g. A process to review and deactivate accounts of newly enrolled participants of the statewide self-exclusion program set forth in Iowa Code section 99F.4(22). The licensee must ensure that the player is paid in full for the player's account balance provided that the licensee acknowledges that the funds have cleared.

14.13(2) The licensee shall also include on the internet site or mobile application the statewide telephone number of the Iowa department of public health to provide problem gambling information and extensive responsible gaming features in addition to those described in Iowa Code section 99F.4(22).

14.13(3) Money forfeited by a voluntarily excluded person pursuant to Iowa Code section 99F.4(22) shall be withheld by the licensee and remitted to the general fund of the state by the licensee.

491—14.14(99E) Licensing of internet fantasy sports contest service providers.

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14.14(1) Operation. The internet fantasy sports contest service provider shall submit the following for commission approval:

- a.* Internal controls for the operation of the account.
- b.* A detailed description and certification of systems and procedures used by the internet fantasy sports contest service provider to validate the identity, age and location of licensee account holders and to validate the legality of wagers accepted.
- c.* Certification of secure retention of all records related to internet fantasy sports contests and accounts for a period of not less than three years or such longer period as specified by the commission.
- d.* Certification of prompt commission access to all records relating to account holder identity, age and location in hard-copy or standard electronic format acceptable to the commission.
- e.* Verification that the player is not on the statewide voluntary self-exclusion list set forth in Iowa Code section 99F.4(22) prior to establishing an account.

14.14(2) Record keeping.

a. Record storage required. Internet fantasy sports contest service providers shall maintain adequate records of business operations, which shall be made available to the administrator upon request. These records shall include:

- (1) All correspondence with the administrator and other governmental agencies on the local, state, and federal level.
- (2) All correspondence between the licensee and any of its customers who are applicants or licensees under Iowa Code chapter 99E.
- (3) Financial records of all transactions with players and all other licensees under these regulations.
- b.* Record retention. The records listed in paragraph 14.14(2) “*a*” shall be retained as required by 491—subrule 5.4(14).

14.14(3) Violation of laws or regulations. Violation of any provision of any laws of the state or of the United States of America or of any rules of the commission may constitute an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking or suspending the license, or fining the licensee, or any combination of the above. The commission has the discretion to suspend fantasy sports contest operations of its licensees by written order if necessary.

These rules are intended to implement Iowa Code chapters 99D, 99E and 99F.

[Filed 3/10/20, effective 5/13/20]

[Published 4/8/20]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5018C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to updates to federal regulations

The Department of Transportation hereby amends Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.188, 321.449 and 321.450.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

The amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399.

Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The amendments to Chapter 520 adopt the current CFR dated October 1, 2019, for 49 CFR Parts 107, 171, 172, 173, 177, 178, 180, 385 and 390 to 399.

The amendment to Chapter 529 adopts the current CFR dated October 1, 2019, for 49 CFR Parts 365 to 368 and 370 to 379.

The amendment to Chapter 607 adopts the current CFR dated October 1, 2019, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2018 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Parts 171-173, 178 and 180 (FR Vol. 83, No. 216, Pages 55792-55811, 11-7-18)

This final rule amends the HMR in response to 19 petitions for rule making submitted by the regulated community to update, clarify, streamline, or provide relief from various HMR. By adopting these deregulatory amendments, the PHMSA is allowing more efficient and effective ways of transporting hazardous materials in commerce while maintaining an equivalent level of safety. Effective date: December 7, 2018.

Parts 107 and 171 (FR Vol. 83, No. 228, Pages 60733-60754, 11-27-18)

This final rule amends the HMR in accordance with the federal Civil Penalties Inflation Adjustment Act to apply the 2018 inflation adjustment to civil penalty amounts. A civil penalty may be imposed under federal law on persons violating federal Department of Transportation regulations, including persons who knowingly violate the HMR. Effective date: November 27, 2018.

Part 390 (FR Vol. 83, No. 233, Pages 62505-62508, 12-4-18)

This final rule extends the compliance date of the May 27, 2015, final rule titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers," from January 1, 2019, to January 1, 2021. This extension of the compliance date was necessary to provide the FMCSA time to consider all comments raised regarding this rule making. Effective date: January 1, 2021.

Part 383 (FR Vol. 83, No. 245, Pages 65564-65571, 12-21-18)

This final rule amends FMCSA regulations to allow states the option of issuing a commercial learner's permit (CLP) with an expiration date of up to one year from the date of initial issuance. This rule making

TRANSPORTATION DEPARTMENT[761](cont'd)

simply codifies an exemption previously granted by FMCSA to state driver's licensing agencies allowing them to issue a CLP with an expiration date of one year. Effective date: February 19, 2019.

Part 367 (FR Vol. 83, No. 248, Pages 67124-67131, 12-28-18)

This final rule amends FMCSA regulations to reduce the annual registration fees collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the registration years 2019, 2020 and thereafter as set forth in the regulation. Effective date: December 28, 2018.

Part 107 (FR Vol. 84, No. 31, Pages 3993-4001, 02-14-19)

This final rule amends the HMR to align with the federal Office of Management and Budget's uniform administrative requirements, cost principles and audit requirements for federal grants, including the hazardous materials grants program and the hazardous materials emergency preparedness grant. Effective date: March 18, 2019.

Part 385 (FR Vol. 84, No. 130, Pages 32323-32326, 07-08-19)

This final rule revises FMCSA regulations relating to hazardous material safety permits to incorporate by reference the April 1, 2018, edition of the Commercial Vehicle Safety Alliance's guidance related to out-of-service criteria for commercial highway vehicles transporting transuranic (uranium) materials and highway route-controlled quantities of radioactive materials. The out-of-service criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide. Effective date: July 8, 2019.

Part 383 (FR Vol. 84, No. 141, Pages 35335-35339, 07-23-19)

This final rule amends FMCSA regulations to revise the list of offenses permanently disqualifying a person from operating a commercial motor vehicle to include a felony conviction for using a commercial motor vehicle while committing an offense involving a severe form of human trafficking. This regulation change will also require a change to the list of disqualifying offenses in Iowa Code section 321.208 to implement the requirement, and the Department is proposing to amend that Code section during the 2020 Iowa Legislative Session. Effective date: September 23, 2019. Compliance date: September 23, 2022.

Parts 107 and 171 (FR Vol. 84, No. 147, Pages 37059-37079, 07-31-19)

This final rule amends the HMR in accordance with the federal Civil Penalties Inflation Adjustment Act to apply the 2019 inflation adjustment to civil penalty amounts. A civil penalty may be imposed under federal law on persons violating federal Department of Transportation regulations, including persons who knowingly violate the HMR. Effective date: July 31, 2019.

Part 390 (FR Vol. 84, No. 157, Pages 40272-40296, 08-14-19)

This final rule narrows the applicability of the May 27, 2015, final rule titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers," by excluding certain contracts and other agreements between motor carriers of passengers that have active passenger carrier operating authority registrations with FMCSA from the definition of "lease" and the associated regulatory requirements. For passenger carriers that remain subject to the leasing and interchange requirements, FMCSA returns the bus marking requirement to its July 1, 2015, requirement, but with the slight modification to add references to leased vehicles. FMCSA also revises the exception for the delayed writing of a lease during certain emergencies and removes the 24-hour lease notification requirement from the regulations. Effective date: October 15, 2019.

Part 395 (FR Vol. 84, No. 177, Pages 48077-48081, 09-12-19)

This final rule amends FMCSA regulations applicable to restart provisions for hours of service of drivers of property-carrying commercial motor vehicles. The amendments removed provisions requiring that a 34-hour restart include two periods between 1 a.m. and 5 a.m. and limiting use of restart to once every 168 hours. In a series of federal appropriations acts, Congress suspended these provisions, pending completion of a study comparing the effects of the restart provisions both prior to and after the regulation change. The study found that there were no statistically significant benefits from the restart rule, and thus, the rules were voided by Congress. This amendment merely removes the voided requirement from the regulations. Effective date: September 12, 2019.

Parts 365, 380, 382, 383, 385, 387, 389, 391, 392, 395 and 396 (FR Vol. 84, No. 189, Pages 51427-51435, 09-30-19)

TRANSPORTATION DEPARTMENT[761](cont'd)

This final rule amends FMCSA regulations by making technical changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. Effective date: September 30, 2019.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 12, 2020, as **ARC 4895C**. No public comments were received.

However, the Department has made one change from the Notice. A previous rule making amending Chapter 607, which will become effective April 15, 2020, added a new paragraph 607.10(1)“c” and relettered existing paragraph 607.10(1)“c” as paragraph 607.10(1)“d.” Because of the relettering of that paragraph, Item 5 has been revised to reflect the correct citation of paragraph 607.10(1)“d.”

Adoption of Rule Making

This rule making was adopted by the Department on March 18, 2020.

Fiscal Impact

The fiscal impact statement cannot be determined. The federal regulations adopted by this rule making were subject to fiscal impact review by either the Federal Motor Carrier Safety Administration or the Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive.

Jobs Impact

The amendments may have a slight impact on motor carrier operations. However, the amendments should not negatively impact jobs or employment opportunities because the amendments align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation’s highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, 2018 2019).

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2018~~ 2019).

ITEM 3. Amend rule 761—520.5(321) as follows:

761—520.5(321) Safety fitness.

520.5(1) New motor carrier safety audits. Peace officers in ~~the office of~~ motor vehicle enforcement of the Iowa department of transportation shall perform safety audits of new motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these audits. These audits shall be performed in compliance with 49 CFR Part 385 and shall be completed within 18 months from the day the motor carrier commences business.

520.5(2) Motor carrier compliance reviews. Peace officers in ~~the office of~~ motor vehicle enforcement of the Iowa department of transportation shall perform compliance reviews of motor carriers and shall have the authority to enter a motor carrier's place of business for the purpose of performing these compliance reviews. These compliance reviews shall be performed in compliance with 49 CFR Part 385.

This rule is intended to implement Iowa Code sections 321.449 and 321.450.

ITEM 4. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2018~~ 2019, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or ~~through the Internet~~ at www.fmcsa.dot.gov.

ITEM 5. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2018~~ 2019):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.
- (4) Subpart H—Tests.

[Filed 3/18/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

ARC 5017C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to driver improvement program

The Department of Transportation hereby amends Chapter 615, “Sanctions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12 and 321.210 and 2012 Iowa Acts, Senate File 2218, section 5.

TRANSPORTATION DEPARTMENT[761](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.210 and 321.372(3).

Purpose and Summary

This rule making amends Chapter 615 to allow a person convicted of a first offense for unlawfully passing a school bus under Iowa Code section 321.372(3) to be eligible for the driver improvement program, established in rule 761—615.43(321), in lieu of a driver's license suspension. Currently, a person who is convicted of a first-time offense for unlawfully passing a school bus faces a 30-day driver's license suspension.

Since the rule establishing license suspension was adopted, it has been reported to the Department that there is difficulty in charging and convicting a person of this offense because of the accompanying driver's license suspension penalty and associated requirement that the person hold SR-22 insurance for two years following the suspension. The Department believes that allowing a person convicted of a first-time offense for unlawfully passing a school bus to attend the driver improvement program in lieu of a driver's license suspension will address some of the difficulties with achieving convictions for this offense by offering a consequence that is more in line with other first-time traffic violation convictions. Also, allowing a person with a first-time offense to take a driver improvement course in lieu of license suspension promotes rehabilitating driver behavior, rather than simply punishing drivers or pushing drivers out of the driver system. A driver who attends a driver improvement course will still be subject to a probationary driving period and will be subject to a driver's license sanction if the driver commits a violation during the probationary period. Furthermore, a driver who fails to attend or successfully complete the driver improvement course will be subject to a driver's license suspension.

The driver improvement program is a course offered at community colleges throughout the state on a regular basis. The course is eight hours long with evening and weekend options available. The purpose of the course is to examine attitudes and behaviors in relation to driving, to focus on teaching drivers how behind-the-wheel attitudes affect driving behavior, and to give participants the opportunity to reflect on driving behavior and make a commitment to positively alter the participant's daily driving experience.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 29, 2020, as **ARC 4884C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on March 10, 2020.

Fiscal Impact

In state fiscal year 2019, the Department issued 492 driver's license suspensions for a first-time offense of unlawfully passing a school bus. Each time the Department suspends a person's driver's license for this type of conviction, the Department is required to assess a \$200 civil penalty under Iowa Code section 321.218A. Furthermore, each time a person reinstates the person's driver's license after a suspension, the Department is required to assess a \$20 reinstatement fee under Iowa Code section 321.191. Accordingly, if 492 persons a year attended the driver improvement course in lieu of having the person's driver's license suspended, that would result in \$98,400 less going to the juvenile detention home fund annually ($\$200 \times 492 = \$98,400$) and \$9,840 less going to the statutory allocations fund annually ($\$20 \times 492 = \$9,840$).

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

TRANSPORTATION DEPARTMENT[761](cont'd)

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 13, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **615.17(2)“d”(1)** as follows:

(1) 30 days for a first conviction unless otherwise provided in subparagraph 615.43(1)“a”(4).

ITEM 2. Adopt the following new subparagraph **615.43(1)“a”(4)**:

(4) A person who is convicted of a first offense violation of Iowa Code section 321.372(3) or a similar ordinance of any political subdivision.

[Filed 3/10/20, effective 5/13/20]

[Published 4/8/20]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/8/20.

**PUBLIC HEARINGS: POSSIBLE USE OF TELEPHONIC OR
ELECTRONIC FORMAT DUE TO COVID-19**

To protect public health and promote efficient government operations during the COVID-19 outbreak, the format of a public hearing on a notice of intended action (NOIA) scheduled and published in the Iowa Administrative Bulletin (IAB) may be changed, without further publication in the IAB, from an in-person hearing at a physical location to a hearing conducted solely via telephonic or electronic means. For information on whether the format of a public hearing as published in the IAB has changed and how to participate telephonically or electronically in such a hearing, see the internet site of the relevant agency or contact the agency directly using the contact information published in the NOIA. See also section 69 of the Governor's proclamation of disaster emergency issued April 2, 2020: <https://governor.iowa.gov/sites/default/files/documents/Public%20Health%20Disaster%20Proclamation%20-%202020.04.02.pdf>.

STATE HEMP PLAN APPROVAL

Pursuant to 2019 Iowa Acts, Senate File 599, the Secretary of Agriculture certifies that the United States Department of Agriculture has approved a state plan as described in Iowa Code section 204.3, as enacted in that division of the Act, effective March 19, 2020.

Except as provided in subsection 2 of section 18 of the Act, the provisions of Iowa Code chapter 204 are hereby implemented, including administration and enforcement by the Department of Agriculture and Land Stewardship, the Department of Public Safety, and local law enforcement agencies, effective on the publication date of the Iowa Administrative Bulletin (IAB), April 8, 2020.

ARC 4989C, an Adopted and Filed Emergency rule making to rescind Chapter 96, "Hemp," Iowa Administrative Code, and to adopt in lieu thereof a new Chapter 96 with the same title, was published in the IAB on March 11, 2020. The rule making contains the approved state plan rules. In addition to its adoption on an emergency basis, the rule making was also initiated through the normal rule-making process and was published under Notice of Intended Action as **ARC 4988C** in the IAB on March 11, 2020, to allow for public comment.

